

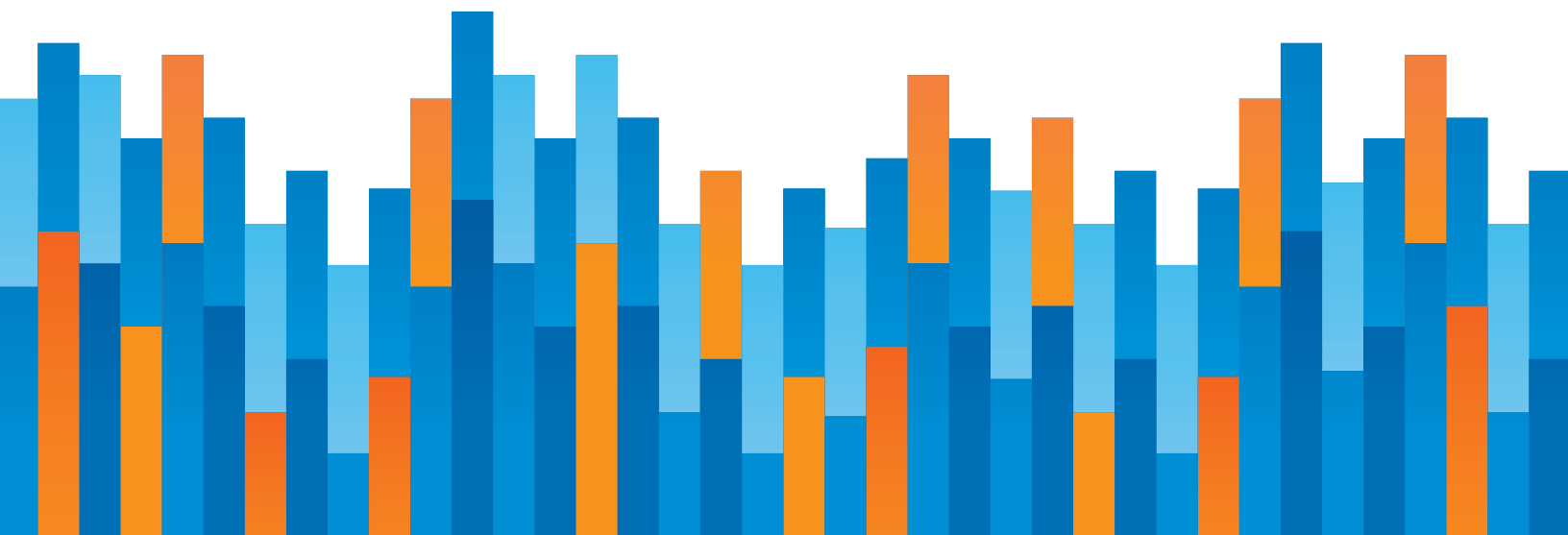


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PUBLIC SCHOOLS WITHOUT BOUNDARIES 2023

by Jude Schwalbach

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TABLE OF CONTENTS

PART 1	INTRODUCTION	1
PART 2	NEW RESEARCH ON K-12 OPEN ENROLLMENT	3
	2.1 Benefits of open enrollment.....	3
	2.2 Fiscal incentives matter.....	4
	2.3 Competition isn't a death knell for school districts	5
	2.4 Open enrollment can ameliorate address-sharing	6
PART 3	OPEN ENROLLMENT BEST PRACTICES AND UPDATES	7
	3.1 Open Enrollment Best Practices.....	7
	3.2 Best Practices Updates to Reason's 2022 Open Enrollment 50-State Ranking	8
PART 4	OPEN ENROLLMENT VICTORIES AND UPDATED STATE SUMMARIES	11
	Arkansas adopted a statewide open enrollment law.....	12
	Idaho's policy is one of the best in the nation.	14
	Montana meets two of Reason's best open enrollment practices.....	15
	Nebraska is one of eight states that require districts to post their available capacity online.....	16
	North Dakota now has robust cross-district open enrollment.....	16
	West Virginia is one of eight states to adopt both cross- and within-district open enrollment.....	19
PART 5	UNCHANGED OPEN ENROLLMENT LAWS IN THE REMAINING 44 STATES.....	20
	Alabama is one of the few states without any open enrollment options.....	21
	Alaska misses the mark on open enrollment.....	22
	Arizona has one of the best open enrollment policies on the books.....	23
	California needs to integrate and strengthen its open enrollment policies.	25
	Colorado is one of eight states that require both cross-district and within-district open enrollment.....	27
	Connecticut's policy needs clarity.....	29
	Delaware meets most open enrollment best practices.....	31
	Florida is one of the six states that meet nearly all of Reason's best practices for open enrollment.....	33
	Georgia is one of 13 states that have a good within-district open enrollment law.....	35
	Hawaii is a single district anomaly.....	36
	Illinois meets none of Reason's best practices policy goals and criminalizes unsanctioned student transfers.....	38
	Indiana's student-centered funding shows that fiscal incentives can improve open enrollment participation.....	40
	Iowa is one of 16 states that meet Reason's cross-district open enrollment goal.	42
	Kansas is an outstanding example of robust open enrollment.	43
	Kentucky's open enrollment policy falls short on all counts.....	45
	Louisiana needs to strengthen its open enrollment options.	47
	Maine meets none of Reason's best practices goals.....	49
	Maryland is one of the few states with no open enrollment options.....	50
	Massachusetts' voluntary programs fall short of good policy.....	51
	Michigan is the only state to financially penalize districts for opting out of open enrollment.....	52
	Minnesota's open enrollment options fall short.....	54
	Mississippi's open enrollment option falls short of comprehensive policy.....	56
	Missouri does not meet any of Reason's best practices goals.....	57

Nevada does not meet any of Reason’s best practices policy goals. 59

New Hampshire does not meet most of Reason’s best practices policy goals..... 60

New Jersey does not meet any of Reason’s best practices policy goals. 61

New Mexico does not meet any of Reason’s best practices policy goals..... 63

New York does not meet any of Reason’s best practices policy goals. 64

North Carolina is one of the few states without any open enrollment options..... 65

Ohio has a robust within-district open enrollment option. 66

Oklahoma has one of the best cross-district open enrollment policies in the nation..... 68

Oregon does not meet any of Reason’s best practices policy goals..... 70

Pennsylvania meets only one of Reason’s best practices policy goals. 71

Rhode Island does not meet most of Reason’s best practices policy goals..... 72

South Carolina does not meet any of Reason’s best practices policy goals..... 73

South Dakota can easily make its open enrollment policies transparent. 75

Tennessee is one of a handful of states that have a robust within-district open enrollment
policy and implement good transparency measures. 77

Texas just misses having rigorous transparency reporting. 78

Utah has one of the best open enrollment policies nationwide..... 80

Vermont meets only one of Reason’s best practices policy goals..... 81

Virginia’s open enrollment policies are very weak. 82

Washington meets one of Reason’s best practices policy goals..... 83

Wisconsin meets the majority of Reason’s best practices policy goals..... 85

Wyoming doesn’t meet any of Reason’s best practices policy goals..... 87

PART 6 CONCLUSION..... 88

ABOUT THE AUTHOR 91

PART 1

INTRODUCTION

K-12 open enrollment lets students transfer to public schools other than their residentially assigned one so long as seats are available. This policy enjoys widespread support as 73% of school parents support it.¹ Open enrollment garners significant support from both Democrats and Republicans; in fact, most of the latest open enrollment reforms were achieved with bipartisan support.² With 85% of K-12 students enrolled in traditional public schools, open enrollment can help many students attend a school that is the right fit.³ Yet most states' laws are weak, ineffective, or only available to limited student groups. In fact, in 2022, only 11 states had robust open enrollment laws. However, six states—Arkansas, Idaho, Montana, Nebraska, North Dakota, and West Virginia—made major improvements to their open enrollment laws during the 2023 legislative sessions.⁴ These reforms vastly

¹ EdChoice and Morning Consult, “The Public, Parents, and K-12 Education,” July 2023, <https://edchoice.morningconsultintelligence.com/assets/236248.pdf> (accessed 18 August 2023).

² Ibid.; Aaron Smith, “The Progressive Case for K–12 Open Enrollment,” *Education Next*, August 9, 2023, <https://www.educationnext.org/the-progressive-case-for-k-12-open-enrollment/> (accessed 18 August 2023); Aaron Garth Smith and Jude Schwalbach, “The Conservative Case for Public School Open Enrollment,” American Enterprise Institute, June 15, 2023, <https://www.aei.org/research-products/report/the-conservative-case-for-public-school-open-enrollment/> (accessed 18 August 2023).

³ Institute for Education Sciences, National Center for Education Statistics, “Percentage distribution of students enrolled in grades 1 through 12, by public school type and charter status, private school orientation, and selected child and household characteristics: 2019,” www.nces.ed.gov/programs/digest/d21/tables/dt21_206.30.asp?current=yes (accessed 25 May 2023).

⁴ Jude Schwalbach, “How Colorado can improve its open enrollment policies for students, parents and school districts,” Reason Foundation, Testimony, April 19, 2023, www.reason.org/testimony/how-colorado-can-improve-its-open-enrollment-policies-for-students-parents-and-school-districts/ (accessed 18 August 2023).

improved the options in each state by making cross- or within-district open enrollment available to all students residing in them. This analysis updates Reason Foundation’s rankings of states’ open enrollment policies, highlights new research showing the benefits of this approach, and refines Reason’s metrics for good open enrollment policy.⁵

25 May 2023). Strong open enrollment laws from Montana and North Dakota were signed into law on May 3, 2023 and May 8, 2023 respectively.

⁵ Jude Schwalbach, “Public Schools Without Boundaries: A 50 State Ranking of K-12 Open Enrollment,” Reason Foundation, Policy Brief, November 3, 2022, www.reason.org/policy-brief/public-schools-without-boundaries-a-50-state-ranking-of-k-12-open-enrollment/ (accessed 25 May 2023).

PART 2

NEW RESEARCH ON K-12 OPEN ENROLLMENT

2.1

BENEFITS OF OPEN ENROLLMENT

Reason Foundation's 2022 report on open enrollment included a comprehensive account of the research on open enrollment's benefits.⁶ Education researchers, however, have already published new research this year. A 2023 EdChoice report interviewed eight district administrators from Arizona, North Carolina, Indiana, and Florida, showing that open enrollment encouraged them to innovate to retain and attract students. In response to market forces, these district administrators reported creating new or improving existing programs. In fact, "Districts and schools consistently demonstrate a strong utilization of marketing and communication strategies as they seek to market themselves and each school's unique programs to families within and beyond district boundaries," wrote the author.⁷ A 2023 Reason Foundation report about Wisconsin's cross-district open enrollment program also showed that school districts respond to competition. Not only did students transfer to school districts with better academics, the school districts that lost students to

⁶ Ibid.

⁷ Susan Pendergrass, "Breaking Down Public School District Boundaries," EdChoice, March 22, 2023, www.edchoice.org/research-library/?report=breaking-down-public-school-district-lines#report (accessed 25 May 2023).

open enrollment initially improved on state tests soon afterward.⁸ Similarly, a 2023 Becker-Friedman Institute report about Los Angeles Unified School District’s within-district open enrollment option found that the program had positive effects on student achievement and college enrollment, especially when transfer students were compared with non-participants. The authors argued that the competition between schools encouraged them to improve. Notably, the report found that the school quality in the lowest-performing schools improved the most.⁹ These reports illustrate that school districts can get better when incentivized. Finally, an international paper found that most students in Spain using open enrollment enrolled in better performing schools, benefiting “children from the lowest educational quintile” most.¹⁰



A 2023 EdChoice report interviewed eight district administrators from Arizona, North Carolina, Indiana, and Florida, showing that open enrollment encouraged them to innovate to retain and attract students.



2.2

FISCAL INCENTIVES MATTER

Funding flexibility is a key component to establishing the right fiscal incentives for districts to offer students more education opportunities, such as available seats.¹¹ Unfortunately, many state education funding systems lack the flexibility to let dollars follow transfer students to their new schools. For instance, when school districts are “off formula” they don’t generate new dollars when transfer students enroll. This results in weak financial

⁸ Will Flanders, “K-12 open enrollment in Wisconsin: Key lessons for other states,” Reason Foundation, Policy Brief, February 9, 2023, www.reason.org/policy-brief/k-12-open-enrollment-in-wisconsin-key-lessons-for-other-states/ (accessed 25 May 2023).

⁹ Christopher Campos and Caitlin Kearns, “The Impact of Public School Choice: Evidence from Los Angeles’ Zones of Choice,” Becker-Friedman Institute, July 13, 2023, <https://bfi.uchicago.edu/working-paper/the-impact-of-public-school-choice-evidence-from-los-angeles-zones-of-choice/> (accessed 18 August 2023).

¹⁰ Lucas Gotázar, David Mayor, and José Montalbán, “Residence-based Priorities and School Choice,” *Economics of Education Review*, Vol. 95, August 2023, 102384, available online 18 May 2023, www.doi.org/10.1016/j.econedurev.2023.102384 (accessed 25 May 2023).

¹¹ Pendergrass, “Breaking Down Public School District Boundaries.”

incentives to accept transfer students, effectively trapping children in residentially assigned schools.¹²

“

Unfortunately, many state education funding systems lack the flexibility to let dollars follow transfer students to their new schools.

”

Yet Wisconsin policymakers circumvented this conundrum by setting a uniform statewide per-pupil amount for all transfer students. This amount, which is reevaluated annually by state policymakers, was approximately \$8,200 for the 2022-2023 school year. At the same time, the statewide per-pupil amount for transfer students with disabilities was about \$13,000 for the 2022-2023 school year. If the costs of a student’s services exceed this amount, the receiving school district can submit a financial statement to the state for up to \$30,000 in reimbursement, which is paid for by the pupil’s home school district.¹³

A 2023 Reason Foundation report showed that these fiscal incentives matter to Wisconsin school districts. In fact, increased funding amounts correlated to greater school district participation. Notably, the number of students using Wisconsin’s open enrollment grew when the state increased the statewide amount that followed transfer students with disabilities in 2016.¹⁴

2.3

COMPETITION ISN'T A DEATH KNEEL FOR SCHOOL DISTRICTS

Previous research from California, Texas, Ohio, and Colorado suggested that school districts, including rural or small ones, use open enrollment to bolster enrollment,

¹² Aaron Garth Smith, Christian Barnard, and Jordan Campbell, “Public education funding without boundaries: How to get K-12 dollars to follow open enrollment students,” Reason Foundation, Policy Brief, January 24, 2023, www.reason.org/policy-brief/public-education-funding-without-boundaries-how-to-get-k-12-dollars-to-follow-open-enrollment-students/ (accessed 25 May 2023).

¹³ Ibid.

¹⁴ Flanders, “K-12 open enrollment in Wisconsin: Key lessons for other states.”

especially when facing a declining local population.¹⁵ New research from Arizona indicates that rural school districts can successfully compete with other school sectors and each other. A 2023 Heritage Foundation report found that, since charter schools and open enrollment policies were signed into law in 1994, “There have been consolidations of rural districts in two counties, the closure of a district in a county without charter or private schools, and one new district created. The overall picture is of relative stability.”¹⁶ Moreover, Arizona hosts a robust array of school choice options in addition to open enrollment, showing that school districts can successfully compete in a robust education marketplace. This illustrates that school choice policies, such as open enrollment, are not a death knell for traditional public schools.

2.4

OPEN ENROLLMENT CAN AMELIORATE ADDRESS-SHARING

A 2023 Available to All report found that 24 states criminalize address-sharing—a practice where parents falsify their address to gain access to a public school other than their assigned one. Parents caught doing so can face hefty consequences, including being incarcerated in 20 states and fined in 16 states. For example, parents caught address-sharing in Texas can receive maximum prison sentences of up to 10 years and a maximum fine of \$10,000.¹⁷ Robust open enrollment laws, however, can reduce the number of families risking address-sharing since it weakens the tie between housing and schooling.

¹⁵ Jude Schwalbach, “School Districts Often Oppose Open Enrollment. Why That’s a Mistake,” *The74*, May 23, 2023, www.the74million.org/article/school-districts-often-oppose-open-enrollment-why-thats-a-mistake/?utm_source=The%2074%20Million%20Newsletter&utm_campaign=991791c0d7-EMAIL_CAMPAIGN_2022_07_27_07_47_COPY_01&utm_medium=email&utm_term=0_077b986842-991791c0d7-49030569 (accessed 25 May 2023).

¹⁶ Jason Bedrick and Matthew Ladner, “Rustic Renaissance: Education Choice in Rural America,” Heritage Foundation, Special Report No. 264, January 9, 2023, www.heritage.org/education/report/rustic-renaissance-education-choice-rural-america (accessed 31 May 2023).

¹⁷ Tim DeRoche, Hailley T.N. Korman, and Harold Hinds, “When Good Parents Go to Jail: The Criminalization of Address Sharing in Public Education,” August 2023, Available To All, https://availabletoall.org/report-when-good-parents-go-to-jail/?et_fb=1&PageSpeed=off (accessed 18 August 2023).

PART 3

OPEN ENROLLMENT BEST PRACTICES AND UPDATES

3.1

OPEN ENROLLMENT BEST PRACTICES

There are five key components to robust open enrollment laws. While no state has fully adopted all five best practices, six states have adopted at least four of them.¹⁸

TABLE 1: REASON'S FIVE BEST PRACTICES FOR OPEN ENROLLMENT

<p>#1 Statewide Cross-District Open Enrollment School districts are required to have a cross-district enrollment policy and are only permitted to reject transfer students for limited reasons, such as school capacity.</p>
<p>#2 Statewide Within-District Open Enrollment School districts are required to have a within-district enrollment policy that allows students to transfer schools within the school district, and are only permitted to reject transfer requests for limited reasons, such as school capacity.</p>
<p>#3 Transparent Reporting by the State Education Agency (SEA) The State Education Agency annually collects and publicly reports key open enrollment data by school district including transfer students accepted, transfer applications rejected, and the reasons for rejections.</p>

¹⁸ Schwalbach, "Public Schools without Boundaries."

#4 Transparent School District Reporting

Districts are annually required to publicly report seating capacity by school and grade level so families can easily access data on available seats. Open enrollment policies, including all applicable deadlines and application procedures, must be posted on districts' websites.

#5 Children Have Free Access to All Public Schools

School districts should not charge families transfer tuition.

3.2

BEST PRACTICES UPDATES TO REASON'S 2022 OPEN ENROLLMENT 50-STATE RANKING

In the 2022 version, a transparency provision requiring that “districts must post their open enrollment policies and procedures on their websites” was included in the metric for statewide cross- and within-district open enrollment. This provision is important, but fits better under the fourth metric, transparent district reporting. This update amends Reason’s best practice metrics to expand transparent district reporting to include this provision and exclude it from Reason’s metrics for statewide cross- and within-district open enrollment. This change does not negatively impact any state’s ranking from 2022, but it does positively impact the rankings for five states. As a result, Nebraska and South Dakota now receive positive rankings for statewide cross-district open enrollment, while California, Ohio, South Dakota, and Washington now receive positive rankings for statewide within-district open enrollment.¹⁹

In the section enumerating ways to improve Minnesota’s open enrollment policy, the 2022 study omitted addressing the artificial cap the state’s school districts can place on transfer students.²⁰ In addition to other suggested policy reforms, Minnesota must eliminate this artificial cap to meet Reason’s best practices standard for statewide cross-district open enrollment.²¹ Eliminating this cap, just as Arkansas did this year, would strengthen Minnesota’s policy.

¹⁹ While California law requires all school districts to participate in within-district open enrollment, some, such as Los Angeles Unified School District, seem to flaunt this requirement through dubious interpretations of state law, according to Tim DeRoche’s 2020 book, *A Fine Line*.

²⁰ Schwalbach, “Public Schools without Boundaries.”

²¹ Minnesota Statutes Education Code: Prekindergarten-Grade 12 (Ch. 120-129C) § 124D.03. Enrollment options program, www.codes.findlaw.com/mn/education-code-prekindergarten-grade-12-ch-120-129c/mn-st-sect-124d-03.html (accessed 25 May 2023).

Lastly, the “State-by-State Open Enrollment Analysis” in the 2022 study mistakenly gave checkmarks to Maine and Michigan for prohibiting school districts from charging public school tuition. Yet, as the summaries for both states noted, school districts can charge public school tuition. Stopping school districts from charging public tuition to non-resident students, just as Montana and North Dakota did this year, would improve Maine’s and Michigan’s policies.

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Most states need to make their open enrollment policies transparent.
 ”

Most states need to make their open enrollment policies transparent. Despite the metric adjustment and open enrollment victories this year, every state can still improve its open enrollment policy. No state meets all five of the open enrollment best practices in Reason’s checklist. Using Reason’s open enrollment best practices checklist as a metric: only 16 states have statewide cross-district open enrollment; only 13 states have statewide within-district open enrollment; only three states have transparent SEA reporting; only eight states have transparent school district reporting; and 24 states make public schools free to all students.

TABLE 2: STATE-BY-STATE OPEN ENROLLMENT ANALYSIS AS OF 2023

State	# of Best Practices Adopted	Statewide cross-district open enrollment	Statewide within-district open enrollment	Transparent SEA reports	Transparent district reporting	Public schools free to all students
Alabama	0/5	X	X	X	X	X
Alaska	0/5	X	X	X	X	X
Arizona	4/5	✓	✓	X	✓	✓
Arkansas	2/5	✓	X	X	X	✓
California	1/5	X	✓	X	X	X
Colorado	3/5	✓	✓	X	X	✓
Connecticut	1/5	X	X	X	X	✓
Delaware	3/5	✓	✓	X	X	✓
Florida	4/5	✓	✓	X	✓	✓
Georgia	1/5	X	✓	X	X	X
Hawaii	1/4	N/A	X	X	X	✓
Idaho	4/5	✓	✓	X	✓	✓
Illinois	0/5	X	X	X	X	X
Indiana	0/5	X	X	X	X	X
Iowa	1/5	✓	X	X	X	X
Kansas	4/5	✓	X	✓	✓	✓
Kentucky	0/5	X	X	X	X	X
Louisiana	1/5	X	X	X	X	✓
Maine	0/5	X	X	X	X	X

State	# of Best Practices Adopted	Statewide cross-district open enrollment	Statewide within-district open enrollment	Transparent SEA reports	Transparent district reporting	Public schools free to all students
Maryland	0/5	X	X	X	X	X
Massachusetts	1/5	X	X	X	X	✓
Michigan	0/5	X	X	X	X	X
Minnesota	1/5	X	X	X	X	✓
Mississippi	1/5	X	X	X	X	✓
Missouri	0/5	X	X	X	X	X
Montana	2/5	✓	X	X	X	✓
Nebraska	3/5	✓	X	X	✓	✓
Nevada	0/5	X	X	X	X	X
New Hampshire	1/5	X	X	X	X	✓
New Jersey	0/5	X	X	X	X	X
New Mexico	0/5	X	X	X	X	X
New York	0/5	X	X	X	X	X
North Carolina	0/5	X	X	X	X	X
North Dakota	2/5	✓	X	X	X	✓
Ohio	1/5	X	✓	X	X	X
Oklahoma	4/5	✓	X	✓	✓	✓
Oregon	0/5	X	X	X	X	X
Pennsylvania	1/5	X	X	X	X	✓
Rhode Island	1/5	X	X	X	X	✓
South Carolina	0/5	X	X	X	X	X
South Dakota	2/5	✓	✓	X	X	X
Tennessee	2/5	X	✓	X	✓	X
Texas	0/5	X	X	X	X	X
Utah	4/5	✓	✓	X	✓	✓
Vermont	1/5	X	X	X	X	✓
Virginia	0/5	X	X	X	X	X
Washington	1/5	X	✓	X	X	X
West Virginia	3/5	✓	✓	X	X	✓
Wisconsin	3/5	✓	X	✓	X	✓
Wyoming	0/5	X	X	X	X	X
Positive policies on the books		16/49	13/50	3/50	8/50	24/50
		33%	26%	6%	16%	48%

PART 4

OPEN ENROLLMENT VICTORIES AND UPDATED STATE SUMMARIES

During the 2023 legislative sessions, state policymakers introduced at least 26 open enrollment bills, six of which were signed into law in Arkansas, Idaho, Montana, Nebraska, North Dakota, and West Virginia.²² These new laws significantly improved open enrollment, expanding public school choice for more than 1.3 million students.²³ In sum, statewide cross-district open enrollment policies in five states, statewide within-district open enrollment policies in two states, transparent district reporting provisions in two states, and prohibitions against public school tuition in two states were signed into law during the 2023 legislative sessions.

²² Smith and Schwalbach, “The Conservative Case for Public School Open Enrollment.” Open enrollment proposals of varying strengths were introduced, but failed in Alabama, Georgia, Louisiana, Mississippi, Missouri, New Hampshire, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.

²³ Burbio, Burbio’s School Enrollment Tracker, “PK-12 Public School 2021/2022 Enrollment Change,” 2023, www.about.burbio.com/school-enrollment-tracker (accessed 25 May 2023).

Arkansas adopted a statewide open enrollment law.

Gov. Sarah Huckabee-Sanders signed State Sen. Breanne Davis' Senate Bill 294, the LEARNS Act, into law, vastly expanding the Arkansas Opportunity Public School Choice Act.

Previously, school districts capped the number of cross-district transfer students at 3% per school district. The new law eliminates the arbitrary participation cap and now lets any number of students participate in cross-district open enrollment.²⁴ Public schools cannot charge transfer students the cost of tuition. Parents, however, who falsify their address for unsanctioned student transfers can be fined up to \$1,000.²⁵

The Natural State, however, does not require school districts to participate in within-district open enrollment unless students are assigned to schools with the letter grade of "F."²⁶

Arkansas' transparency provisions also fall short of best open enrollment practices. While the SEA publishes an annual report showing the number of within-district transfer students, it does not show the number of rejected applicants or the reasons why they were rejected. The SEA does not publish any data on cross-district transfer students. School districts are not required to show the number of available seats by grade level or post their policies and procedures on their websites.

Arkansas policymakers can improve their open enrollment policies in three ways:

- Arkansas should remove eligibility caps from the within-district open enrollment program.
- The Arkansas Department of Education should publish an annual report showing the number of transfer students accepted or rejected and why transfer applications were rejected.
- Districts should post their available capacity by grade level, and all open enrollment policies and procedures on their websites.

²⁴ Jude Schwalbach, "Arkansas could be the 12th state to enact a robust open enrollment law," Reason Foundation, Commentary, February 23, 2023, <https://reason.org/commentary/arkansas-could-be-the-12th-state-to-enact-a-robust-open-enrollment-law/> (accessed 25 May 2023).

²⁵ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

²⁶ Arkansas Code Title 6. Education § 6-18-227, Arkansas Opportunity Public School Choice Act, <https://law.justia.com/codes/arkansas/2020/title-6/subtitle-2/chapter-18/subchapter-2/section-6-18-227/> (accessed 5 September 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

Idaho's policy is one of the best in the nation.

Gov. Brad Little signed the Senate State Affairs Committee's SB 1125 into law, putting Idaho's open enrollment policy on par with national leaders, such as Florida or Arizona.²⁷ In 2022, Idaho met just one of Reason's best open enrollment practices: not charging transfer students public school tuition. Yet the state now meets four out five best practices. As of July 1, 2023, the new law now requires all school districts to participate in cross- and within-district open enrollment. School districts must also post their available capacity by grade level, and all pertinent policies and procedures on their websites. School districts must consider transfer applications throughout the school year, although applications received after February 1st will be based on the school district's capacity.

The Gem State's new law also requires the State Department of Education to publish a report showing the number of transfer students accepted or rejected, but does not include the reasons why applications were rejected.

Idaho policymakers can improve their open enrollment policies in three ways:

- Require the State Department of Education (SDE) to include the reasons why transfer applicants were rejected in their annual published report.
- Require school districts to create a waitlist each year and notify waitlisted students when seats become available.
- Separate newly built or remodeled state-funded schools from the existing system of residential assignment. Instead, admission to new or remodeled schools should be determined by a randomized lottery.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	✓

²⁷ Idaho Legislature, 2023 Legislative Session, Senate Bill 1125, www.legislature.idaho.gov/sessioninfo/2023/legislation/s1125/ (accessed 25 May 2023).

Montana meets two of Reason's best open enrollment practices.

Gov. Greg Gianforte signed State Rep. David Bedey's House Bill 203 into law, establishing a robust statewide cross-district open enrollment policy.²⁸ School districts can only reject transfer applicants for limited reasons, such as truancy or discipline. They can also reject a transfer applicant if approval would cause the district to exceed the limits of a building's construction standards, "capacity and ingress and egress elements, either by individual room or school building, of any fire code," or a school district's safety plan. The new law also prohibits school districts from charging public school tuition to transfer students.

The Treasure State requires the superintendent of public instruction to annually report to the Education Interim Committee on Out-of-District Attendance each school district's total enrollment, and the number of students that transfer into and out of it under out-of-district attendance agreements. However, the superintendent does not include the number of rejected transfer applications or the reasons why they were rejected. Montana's open enrollment law does not require districts to post their open enrollment policies and procedures, or their available capacity by grade level on their websites. School districts are not required to participate in within-district open enrollment.

Montana policymakers can improve their open enrollment policy in three ways:

- Require the superintendent to include the number of rejected applications and the reasons why transfer applicants were rejected in the annual report to the Education Interim Committee on Out-of-District Attendance.
- Require school districts to post their open enrollment policies and procedures, and their available capacity by grade level on their websites.
- Require all school districts to participate in within-district open enrollment.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✗
Transparent Reporting by the State Education Agency (SEA)	✗
Transparent School District Reporting	✗
States Should Ensure That Children Have Free Access to All Public Schools	✓

²⁸ Montana Legislature, 2023 January Regular Session, House Bill 0203, [www.laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20231&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=203&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://www.laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20231&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=203&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=) (accessed 25 May 2023).

Nebraska is one of eight states that require districts to post their available capacity online.

Gov. Jim Pillen signed State Sen. Dave Murman's Legislative Bill 705 into law, improving Nebraska's transparency provisions for the state's open enrollment program. Now school districts are required to post their open enrollment policies and procedures on their websites. Moreover, the SEA collects important information about transfer students (called option students locally), such as the number of rejected applications, the reasons why applications were rejected, and if the applicant has an IEP or disability. The SEA submits a report including this data annually to the state legislature. The report's publication is at the discretion of the state legislature.²⁹ All districts are required to participate in statewide cross-district open enrollment and can only reject transfer students for limited reasons. Districts cannot charge transfer students the cost of tuition.³⁰

The state code requires districts to prioritize the siblings of transfer students, students previously enrolled through open enrollment, and those residing in a learning community that contributes to the school's socioeconomic diversity at the school building in which they enroll. Students fall into this final category under two circumstances: they are FRPL eligible but would transfer to a school where a large percentage of students are not FRPL eligible, or they are not FRPL eligible and would transfer to a school where a large percentage of students are FRPL eligible.³¹

The Cornhusker State does not have a within-district open enrollment option. Unfortunately, the SEA is not required to publicly publish its annual report or include the total number of transfer students.

Nebraska policymakers can improve their open enrollment laws in at least three ways:

- Require all districts to post their cross-district open enrollment policies and procedures online.

²⁹ Nebraska Department of Education, "Enrollment Option Program: **New Reporting Requirements for Districts**," August 18, 2023, <https://www.education.ne.gov/fos/enrollment-option-application-instructions-faqs/> (accessed 6 September 2023).

³⁰ Nebraska Legislature, Nebraska Revised Statutes, Chapter 79, §237-238, 243, 2110.01, <https://nebraskalegislature.gov/laws/browse-chapters.php?chapter=79> (accessed 26 June 2023).

³¹ Nebraska Revised Statute 79-2110, <https://nebraskalegislature.gov/laws/statutes.php?statute=79-2110> (accessed 26 June 2023).

- Require all districts to participate in within-district open enrollment, posting policies and procedures online.
- Require the SEA to collect and publish open enrollment data, including the total number of transfer students.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	✓

North Dakota now has robust cross-district open enrollment.

Gov. Doug Burgum signed House Bill 1376—sponsored by State Reps. Strinden, Meier, Monson, Pyle, Richter, Satrom, and Schreiber-Beck and Sens. Davison and Meyer—into law, requiring all school districts to participate in cross-district open enrollment and making public schools free to all students.³² Previously, North Dakota met none of Reason’s metrics for good open enrollment policy. Under the new law, transfer applications can only be rejected if there is a lack of capacity in a program, grade level, or school. While school districts cannot influence students’ decisions to participate in open enrollment, they can provide informational materials about open enrollment at any time.

While this is a first step in the right direction, the Peace Garden State has a ways to go. It does not require school districts to participate in within-district open enrollment. Another weakness in North Dakota’s new policy is a lack of transparency. School districts are not required to post their open enrollment policies and procedures or available capacity by grade level on their websites. As well, the North Dakota Department of Public Instruction does not publish an annual report showing the number of transfer students, the number of rejected applications, and the reasons for rejections.

North Dakota policymakers can improve their open enrollment policy in three ways:

- Require school districts to participate in within-district open enrollment.
- Require school districts to post their open enrollment policies and procedures, and their available capacity by grade level on their websites.
- Require the North Dakota Department of Public Instruction to publish an annual report showing the number of transfer students and rejected applications, and why applicants were rejected.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✗
Transparent Reporting by the State Education Agency (SEA)	✗
Transparent School District Reporting	✗
States Should Ensure That Children Have Free Access to All Public Schools	✓

³² North Dakota 68th Legislative Assembly (2023-25), House Bill 1376, www.ndlegis.gov/assembly/68-2023/regular/bill-index/bi1376.html?bill_year=2023&bill_number=1376 (accessed 25 May 2023).

West Virginia is one of eight states to adopt both cross- and within-district open enrollment.

Gov. Jim Justice signed House Bill 2596, introduced by State Delegate Christopher Toney, into law, which requires all school districts to participate in both cross- and within-district open enrollment.³³ Also, school districts cannot charge transfer students public school tuition. Under the new law, West Virginia now meets three out of five best open enrollment practices, instead of just one.

The Mountain State requires the State Department of Education to collect important open enrollment data, including the number of transfer applicants accepted or rejected, and the reasons why applications were rejected, and to report this data to the Legislative Oversight Commission on Education Accountability (LOCEA) by July 30th each year. While some of this data could be made public at LOCEA meetings, it does not have to be published. Every year, each school district must post its number of accepted or rejected transfer students on its website. School districts are also required to post their open enrollment policies and procedures online, but do not have to post their available capacity by grade level.

This is commendable progress, but West Virginia policymakers can still improve their open enrollment policies in three ways:

- The LOCEA or the West Virginia Department of Education should publish its open enrollment report annually.
- School districts must post their available capacity by grade level.
- School districts must establish a waitlist each year and notify waitlisted transfer students when space becomes available.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

³³ West Virginia Legislature, House Bill 2596, www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=2596&year=2023&sessiontype=RS (accessed 25 May 2023).

PART 5

UNCHANGED OPEN ENROLLMENT LAWS IN THE REMAINING 44 STATES

Alabama is one of the few states without any open enrollment options.

Alabama has neither cross-district nor within-district open enrollment options, statewide or voluntary in statute.³⁴ The state does permit student transfers when students are assigned to persistently dangerous or unsafe schools.³⁵ Districts are not required to post their available capacity. Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to 90 days.³⁶

The Cotton State can improve its open enrollment offerings in three primary ways:

- Require all districts to participate in statewide cross-district open enrollment, posting their policies and procedures online.
- Require all districts to participate in statewide within-district open enrollment, posting their policies and procedures online.
- Require all districts to publish their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

³⁴ Congressional Research Service, “Overview of Public and Private School Choice Options,” January 13, 2022, www.everycrsreport.com/files/2022-01-13_IF10713_ddb5cdafe7ec2f2fa15f99656f57f0e6f822a857.pdf (accessed 26 June 2023).

³⁵ Alabama State Board of Education, State Department of Education, Administrative Code, Chapter 290-3-1-e Unsafe School Choice Option, www.alabamaadministrativecode.state.al.us/docs/ed/290-3-1.pdf (accessed 26 June 2023); Alabama State Board of Education, State Department of Education, Administrative Code, Chapter 290-4-1-04 Flexibility for Students in Failing Schools, www.alabamaadministrativecode.state.al.us/docs/ed/290-4-1.pdf (accessed 26 June 2023).

³⁶ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

Alaska misses the mark on open enrollment.

Alaska does not have statewide or voluntary cross-district or within-district open enrollment policies.³⁷ Also, the Last Frontier State scores low marks on transparency since it does not require districts to publicly report their capacity or report the number of transfers and the reasons why transfer applications were rejected to the SEA. Alaska’s current policy permits school districts to charge tuition to the families of transfer students when the student’s grade level is offered in their assigned district and the assigned district does not accept the billing.³⁸

Alaska policymakers could improve their open enrollment options in three primary ways:

- Require school districts to have statewide cross-district enrollment, rejecting applications for limited reasons such as insufficient capacity. All policies and procedures must be posted on districts’ websites.
- Require districts to have statewide within-district enrollment, rejecting applications for limited reasons such as insufficient capacity. All policies and procedures must be posted on districts’ websites.
- Require districts to publicly report seating capacity by school and grade level at least annually.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

³⁷ Alaska Department of Education and Early Development, “Public School Choice,” <https://education.alaska.gov/parents#PublicSchoolChoice> (accessed 27 June 2023).

³⁸ Alaska Administrative Code, “Section 4 AAC 09.030 - Tuition costs,” Casetext, April 27, 2023, <https://casetext.com/regulation/alaska-administrative-code/title-4-education-and-early-development/chapter-09-state-support-of-schools/article-1-state-aid/section-4-aac-09030-tuition-costs> (accessed 27 June 2023).

Arizona has one of the best open enrollment policies on the books.

Arizona requires all districts to participate in statewide cross-district and within-district open enrollment.³⁹ All policies must be easily accessible from the homepage of school district websites in English, Spanish, and any other language that is used by the majority of the population served by the school district. Schools must accept students throughout the year so long as there are open seats. When a school is at full capacity, then any remaining students will be put on a waitlist and admitted through a lottery. Schools must give priority to returning students and the siblings of current students. If they choose, schools may also prioritize students that are in foster care, considered unaccompanied youth, or attend a closing school. School districts also cannot charge tuition to transfer students.

The Grand Canyon State also requires districts and schools to update their available capacity every 12 weeks by grade level on their website. The Arizona Department of Education must also provide an annual report to policymakers and the public that shows “the open enrollment participation rate by school district, school, and county, including the number of pupils, by student subgroup designation, in each school and school district that are open enrolled as resident pupils, resident transfer pupils or nonresident pupils for each school district and the school districts and zip codes from which students are enrolling.” However, districts do not have to report the reasons why transfer student applications were rejected. Arizona also provides free transportation to transfer students, capping it at 30 miles.

Arizona policymakers could improve their open enrollment options in three main ways:

- Require the SEA to publish the reasons why transfer student applications are denied.
- Eliminate the 30-mile cap on transportation.
- Sharpen open enrollment language in the statute to clarify that transfer students can only be rejected for limited reasons, e.g., capacity.

³⁹ Arizona State Legislature, Article 1.1, Open School Enrollment, 15-816, www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/15/00816.htm (accessed 26 June 2023); Arizona Department of Education, “FY 2022 Open Enrollment Participation Report,” School Finance Reports, FY 2022, <https://www.azed.gov/finance/reports/> (accessed 27 June 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	✓

California needs to integrate and strengthen its open enrollment policies.

California operates three cross-district and one within-district open enrollment programs. The state's statewide within-district option permits students to transfer to their school of choice inside their assigned district. If the number of applicants exceeds available capacity, then the school must determine admission through a randomized lottery.⁴⁰ Districts are not required to post their policies and procedures online.

The cross-district permit system is the Golden State's largest cross-district open enrollment option, with 146,109 students participating during the 2018-2019 school year.⁴¹ Cross-district transfers can occur when two districts establish a transfer agreement. Both school districts must sign a permit to initiate each student transfer under these circumstances. Participating districts must post their policies and procedures on their website in all pertinent languages and are encouraged to report their transfer data to the SEA.⁴² The program is scheduled to sunset July 1, 2028.⁴³

The District of Choice program is the second largest voluntary cross-district open enrollment program, with 9,568 students participating in the 2018-2019 school year.⁴⁴ In the case of oversubscription, admission is determined by a randomized lottery. However, siblings of current students, pupils eligible for free or reduced-price meals, and children of active duty military personnel are given priority. Participating districts must post their policies and procedures online in all relevant languages. They must report open enrollment data, including the number of transfer students and the reasons why transfer applications were rejected. All data must be publicly published annually by the SEA.⁴⁵

⁴⁰ California Legislative Information, Code, Education Code, Title 2, Division 3, Part 21, Chapter 2, Article 4. 35160.5, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=35160.5.&lawCode=EDC (accessed 26 June 2023).

⁴¹ "Follow-Up Evaluation of the District of Choice Program," Legislative Analyst's Office "Follow-Up Evaluation of the District of Choice Program," California Legislature, Legislative Analyst's Office, February 1, 2021, www.lao.ca.gov/Publications/Report/4329 (accessed 26 June 2023).

⁴² California Legislative Information, Code, Title 2, Division 4, Part 26, Chapter 5, Section 46600, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=46600.&lawCode=EDC (accessed 26 June 2023).

⁴³ Press Release, "District of Choice Program Extended Five Years," September 28, 2022, <https://sd29.senate.ca.gov/news/press-release/district-choice-program-extended-five-years> (accessed 5 September 2023).

⁴⁴ "Follow-Up Evaluation of the District of Choice Program," Legislative Analyst's Office.

⁴⁵ California Legislative Information, Code, Title 2, Division 4, Part 27, Chapter 2, Article 7, Section 48300, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=48300.&lawCode=EDC (accessed 26 June 2023).

California students can transfer to another district if one of their parents works inside that district’s boundaries for at least 10 hours during the school week. This being said, schools are not required to admit these students as long as they are not rejected based on their race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.⁴⁶ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to four years.⁴⁷

California policymakers can improve open enrollment in three main ways:

- Consolidate the various cross-district open enrollment options into the District of Choice program, make it statewide, and eliminate all sunset provisions.⁴⁸
- Require all school districts to post their available capacities by grade level and all policies and procedures on their websites.
- Ensure that Basic Aid districts are financially incentivized to enroll transfer students.

Best Practices	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

⁴⁶ California Legislative Information, Code, Title 2, Division 4, Part 27, Chapter 2, Article 1, Section 48204, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=48204.&lawCode=EDC (accessed 26 June 2023).

⁴⁷ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

⁴⁸ Jude Schwalbach, “Open enrollment can help California’s public schools attract students,” Reason Foundation, Commentary, May 22, 2023,

Colorado is one of eight states that require both cross-district and within-district open enrollment.

The state requires all school districts to participate in statewide cross-district and within-district open enrollment. Students can enroll in particular programs or schools outside their assigned school district or catchment zone. Districts and schools must make their open enrollment policies available on their website. Once enrolled, the student can remain in the school or program until the end of the school year (however, they must reapply each year). Schools and districts cannot charge transfer students tuition or fees.⁴⁹

However, the Centennial State does not require the SEA to collect or publish data, such as the number of transfer students or the reasons transfer applications were rejected. Nor are districts required to post their available capacity on the districts' website. Colorado permits schools and districts significant discretion in student selection. This means that transfer applications can be rejected for reasons besides capacity, such as the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance.⁵⁰

Colorado can improve its open enrollment options in three main ways:

- Require school districts to annually publish the school capacity by grade level.
- Require the SEA to collect and publish data showing why transfer applications were rejected.⁵¹
- Permit all districts to transport transfer students across district boundaries.

⁴⁹ Colorado Revised Statutes Title 22. Education § 22-33-103, <https://codes.findlaw.com/co/title-22-education/co-rev-st-sect-22-33-103.html> (accessed 26 June 2023).

⁵⁰ Colorado Revised Statutes Title 22. Education § 22-36-101, <https://codes.findlaw.com/co/title-22-education/co-rev-st-sect-22-36-101.html> (accessed 26 June 2023); Ragland and Hulse, "Open Doors, Open Districts," Ready Colorado, Fall 2018, <https://readycolo.org/wp-content/uploads/2018/10/ODODfinal.pdf> (accessed 26 June 2023).

⁵¹ Jude Schwalbach, "How Colorado can improve its open enrollment policies for students, parents and school districts," Reason Foundation, Testimony, April 19, 2023, <https://reason.org/testimony/how-colorado-can-improve-its-open-enrollment-policies-for-students-parents-and-school-districts/> (accessed 26 June 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

Connecticut's policy needs clarity.

Connecticut's open enrollment policy is opaque and convoluted. While the state requires certain districts, specifically those in Bridgeport, Hartford, New Haven, and some of their surrounding districts, to participate in cross-district open enrollment (Open Choice Program), the policy remains voluntary in all other districts.⁵² Even inside the regions where cross-district choice is required, families cannot choose any available school. For instance, Hartford families participating in Open Choice can only apply to schools in nearby school districts. Although the applicant has access to a greater number of schools, placement offers are still determined by the applicant's home address.⁵³ However, the families of transfer students who utilize Open Choice cannot be charged the cost of tuition. Connecticut is one of the 24 states that do not permit districts to charge families tuition. The state also permits voluntary within-district open enrollment, allowing parents to select their desired schools.⁵⁴ If there are more applicants than available seats, the district must use a lottery that is designed to preserve or increase the racial, ethnic, and economic diversity of a school. However, priority can also go to siblings of current students and students who go to schools that lost their accreditation or were identified as "in need of improvement" according to the No Child Left Behind Act.⁵⁵

The Constitution State could improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, posting all policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting all policies and procedures online.
- Require districts to post their available capacity annually online.

⁵² General Statutes of Connecticut, Title 10, Chapter 172, Sec. 10-266aa, www.cga.ct.gov/current/pub/chap_172.htm#sec_10-266aa (accessed 26 June 2023).

⁵³ Connecticut State Department of Education, Family Guide to School Choice in the Greater Hartford Region Pre-K to Grade 12 • School Year 2022-23, <https://portal.ct.gov/-/media/SDE/School-Choice/RSCO/RSCOFamilyGuide.pdf> (accessed 26 June 2023).

⁵⁴ General Statutes of Connecticut, Title 10, Chapter 170, Section 10-221e, https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221e (accessed 26 June 2023).

⁵⁵ Connecticut Department of Education, Open Choice Programs, <https://portal.ct.gov/SDE/School-Choice/CT-School-Choice/Open-Choice-Programs> (accessed 26 June 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

Delaware meets most open enrollment best practices.

In Delaware, school districts are required to participate in statewide cross-district and within-district open enrollment. Districts can prioritize applicants who are returning students, seek to attend based on the feeder pattern of their residence, or have siblings already enrolled in the school. After these students, districts are allowed to prioritize applicants who listed their school as a top choice, live within the district, or have a parent that works at the school. Any remaining open seats are filled by a randomized lottery. Districts must post their open enrollment policies on their websites and annually publicly report their capacity.⁵⁶ Per the state code, school districts' capacity is defined as "the maximum number of students that a program or school can contain as determined solely by considerations of physical space, physical resources, and class size for each grade level."⁵⁷

Districts can only reject students for limited reasons, such as lack of capacity. Districts are considered at full capacity when their projected enrollment for the following year reaches 85%. Transfer students cannot be charged tuition. However, parents who falsify their address for unsanctioned student transfers can be incarcerated for up to one year and fined up to \$2,300.⁵⁸

However, the First State's open enrollment policy falls short on transparency, as the SEA is not required to collect or publish data about the number of transfer students or the reasons transfer applications were rejected.⁵⁹

Policymakers can improve Delaware's open enrollment policy in three main ways:

- Require the SEA to collect and publish data on Delaware's open enrollment options, including the number of transfer students and the reasons why transfer applications were rejected.
- Require random audits of school districts to ensure accurate capacity reporting.
- Don't require families to enroll in their assigned public school before they can participate in open enrollment.

⁵⁶ Delaware Department of Education, "Delaware's Public School Choice Applications."

⁵⁷ Delaware Code Online, Title 14, Chapter 4 School District Enrollment Choice Program, Section 405, <https://delcode.delaware.gov/title14/c004/index.html>, (accessed 26 June 2023).

⁵⁸ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

⁵⁹ Delaware Code Online, Title 14, Chapter 4 School District Enrollment Choice Program, Section 401-414, <https://delcode.delaware.gov/title14/c004/index.html> (accessed 26 June 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

Florida is one of the six states that meet nearly all of Reason's best practices for open enrollment.

Florida requires all school districts to participate in statewide cross-district and within-district open enrollment (called Controlled Open Enrollment). On transfer applications, parents can indicate their desired school placements. Each school district is required to publicly report its available capacity and cannot charge transfer students tuition or fees.⁶⁰ However, parents who falsify their address for unsanctioned student transfers can be incarcerated either 60 days or five years depending on the charges.⁶¹ Florida prioritizes applications from military-connected families who have been restationed, students relocated due to foster care, and those relocated due to a court-ordered separation or a parent's death or illness. In 2019, more than 273,475 students participated in the state's open enrollment options, 98% of which were within-district transfers.⁶²

Florida also prioritizes any student that is assigned to a school that has earned the grade "F" for open enrollment under the Opportunity Scholarship Program. Eligible students under this provision must be given the opportunity to enroll in another public school inside their assigned school district that received a grade not worse than "C." Within-district transfers under this law can remain enrolled in their new school's feeder pattern until they graduate from high school. As well, parents of eligible students can choose to transfer their child to a school in another district that has available space. So long as space is available, the school must accept the transfer student.⁶³

However, the Sunshine State's SEA does not publish data regarding the number of transfer students every year. Nor does the SEA collect and publish the reasons why transfer applications were rejected.⁶⁴

⁶⁰ The 2021 Florida Statutes, Title XLVIII, Chapter 1002.31, www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1002/Sections/1002.31.html (accessed 26 June 2023).

⁶¹ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

⁶² Vittorio Nastasi, "Florida's Open Enrollment Policy Can Serve As a School Choice Model," Reason Foundation, Commentary, January 29, 2020, <https://reason.org/commentary/floridas-open-enrollment-policy-can-serve-as-a-school-choice-model/> (accessed 26 June 2023).

⁶³ The 2021 Florida Statutes, Title XLVIII, Chapter 1002.38, www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1002/Sections/1002.38.html (accessed 26 June 2023).

⁶⁴ The 2021 Florida Statutes, Title XLVIII, Chapter 1002.31.

While Florida’s open enrollment policy is worthy of emulation, the Sunshine’s State’s policymakers can still improve it. Policymakers can improve Florida’s open enrollment options in three primary ways:

- Require the SEA to publish data showing the number of transfer students and the reasons why transfer applications were rejected.
- Require schools to create a waitlist when a school is over capacity and to notify parents when space becomes available.
- Require schools to accept students throughout the year if space becomes available.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	✓

Georgia is one of 13 states that have a good within-district open enrollment law.

While students can transfer between school districts, they can only do so with the consent of both their receiving and sending school districts.⁶⁵ All school districts must participate in statewide within-district open enrollment, but the policy is diminished by the fact that no newly opened schools can participate in statewide within-district open enrollment until four years after opening.⁶⁶ This is especially disappointing since Georgia’s within-district policy has some strong components, such as requiring districts to publish which schools have available capacity and post within-district open enrollment policies in a prominent location on the district website. Districts cannot charge within-district transfers the cost of tuition.⁶⁷ Parents, however, who falsify their address for unsanctioned student transfers can be incarcerated for up to five years and fined up to \$1,000.⁶⁸

Unfortunately, the Peach State does not require the SEA to collect and publish data about the number of transfer students and why transfer applications were rejected.

Georgia can improve its open enrollment options in three primary ways:

- Require districts to participate in statewide cross-district open enrollment.
- Require new schools to participate in within-district open enrollment.
- Require districts to publish their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

⁶⁵ Georgia Code Title 20. Education § 20-2-293, <https://codes.findlaw.com/ga/title-20-education/ga-code-sect-20-2-293.html> (accessed 26 June 2023).

⁶⁶ Georgia Code Title 20. Education § 20-2-2131, <https://codes.findlaw.com/ga/title-20-education/ga-code-sect-20-2-2131.html> (accessed 26 June 2023).

⁶⁷ Georgia Center for Opportunity, “Georgia School Choice Handbook: 2019 Parents Guide,” 2019, https://georgiaopportunity.org/wp-content/uploads/2019/02/18-293-GCO-School-Choice-Handbookv2_Web.pdf (accessed 26 June 2023).

⁶⁸ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

Hawaii is a single district anomaly.

Hawaii's public schools operate under a single school district. Accordingly, open enrollment policies pertinent to regions with multiple school districts, such as cross-district open enrollment, are not germane.

The Aloha State permits "geographic exceptions" that allow students to transfer to a public school other than the one to which they are assigned. However, transfer applicants must obtain a certificate of release from their assigned schools. Schools are only required to inform families about this limited within-district transfer option and its application process upon request.⁶⁹

Schools give priority to transfer applications to students who live in the school's attendance zone (non-custody residence), who have siblings enrolled in the school, who apply to a program not offered at the sending school, or whose parents teach/work at the school. Any remaining seats are filled through a lottery.⁷⁰

The SEA does not collect information about the number of transfer students or the reasons applications are rejected. The school district is not required to publicly show the number of open seats. However, schools cannot charge transfer students tuition.

Policymakers can improve Hawaii's open enrollment options in three main ways:

- Require all schools to participate in statewide within-district open enrollment and to post about the program on the district website.
- Require the district to publish available capacity.
- Require the SEA to track the number of transfer students and the reasons why transfer applications are rejected.

⁶⁹ 2021 Hawaii Revised Statutes, Title 18 Education, 302a Education, 302a-1143 Attending School in What Service Area, <https://law.justia.com/codes/hawaii/2021/title-18/chapter-302a/section-302a-1143/> (accessed 26 June 2023); 2021 Hawaii Revised Statutes, Title 18, 302a Education, 302a-1145 Transfer to Another School, <https://law.justia.com/codes/hawaii/2021/title-18/chapter-302a/section-302a-1145/> (accessed 26 June 2023).

⁷⁰ Hawaii Administrative Rules, Title 8 Department of Education, Subtitle 2 Education, Part 1 Public Schools, Chapter 13 Geographical Exceptions, <https://boe.hawaii.gov/policies/AdminRules/Pages/AdminRule13.aspx> (accessed 26 June 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	NA*
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

*Hawaii operates under a single school district, so cross-district open enrollment is not an option.

Illinois meets none of Reason's best practices policy goals and criminalizes unsanctioned student transfers.

Students can transfer schools under very limited circumstances in Illinois, such as specific agreements between districts.⁷¹ School districts can charge cross-district transfers tuition.⁷² In fact, parents who knowingly enroll in a nonresident district and try to avoid paying tuition are guilty of a class C misdemeanor, which can result in up to 30 days of imprisonment and a fine of up to \$2,300.⁷³

Within-district transfers are voluntary as districts have significant discretion regarding eligible transfers. For instance, districts can reject within-district transfer applications because the applicant doesn't meet academic criteria required for enrollment at a particular school (as set by the LEA).⁷⁴

Unfortunately, the Prairie State's transfer policy is weak on transparency. The state doesn't require districts to post their available capacity on their websites, nor is the SEA required to collect and publish open enrollment data, such as the number of transfers and the reasons transfer applications are rejected.

Illinois policymakers can improve their open enrollment options in three main ways:

- Require districts to participate in statewide cross-district open enrollment and require them to post about these options on district websites.

⁷¹ Illinois Compiled Statutes, Schools 105 ILCS 5/10-22.5 Assignment of pupils to schools–Non-resident pupils–Tuition–Race discrimination, <https://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+10&ActID=1005&ChapterID=17&SeqStart=62800000&SeqEnd=88400000> (accessed 25 June 2023).

⁷² Illinois Compiled Statutes, Schools 105 ILCS 5/10-20.12a Tuition for Non-Resident Pupils, <https://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+10&ActID=1005&ChapterID=17&SeqStart=62800000&SeqEnd=88400000> (accessed 26 June 2023).

⁷³ Illinois Compiled Statutes, Schools 105 ILCS 5/10-20.12b Residency; payment of tuition; hearing; criminal penalty, (d-5)(f), <https://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+10&ActID=1005&ChapterID=17&SeqStart=62800000&SeqEnd=88400000> (accessed 26 June 2023); Illinois Compiled Statutes, 730 ILCS 5/5-4.5-65 Class C Misdemeanors; Sentence, <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=073000050K5-4.5-65> (accessed 26 June 2023); DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

⁷⁴ Illinois Compiled Statutes, Schools 105 ILCS 5/10-21.3a Transfer of Students, <https://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+10&ActID=1005&ChapterID=17&SeqStart=62800000&SeqEnd=88400000> (accessed 26 June 2023).

- Require districts to participate in statewide within-district open enrollment and require them to post about this option on district websites.
- Require districts to post their available capacity on their websites.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

Indiana's student-centered funding shows that fiscal incentives can improve open enrollment participation.

In the Hoosier State, only Indianapolis schools are required to participate in statewide cross-district and within-district open enrollment, giving priority to transfer applicants who have a household member already attending that school or if their parent is an employee at the school.⁷⁵ All other Indiana school districts can choose to participate in cross-district or within-district open enrollment. However, districts can charge transfer students tuition. Districts that do participate in open enrollment are required to post their available capacity on their websites.⁷⁶

Although the Hoosier State does annually collect and publish open enrollment data on participating schools, such as the number of transfer students, the report does not include the reasons why transfer applications were rejected.⁷⁷

While Indiana's codified open enrollment programs fall short of good policy, the state remains a noteworthy example of student-centered funding. Indiana's education funding formula strongly incentivizes school districts to participate in cross-district open enrollment. A 2008 tax swap removed local property taxes from the state education funding formula so that the state funds 100% of school operations.⁷⁸ "By eliminating local property dollars from K-12 operations and having the state take full responsibility over operating funds, policymakers inadvertently improved the overall portability of its funding system."⁷⁹ This reform guarantees that school districts receive the full per-pupil amount for all transfer students, encouraging many school districts to participate in cross-district open

⁷⁵ Indiana Code Title 20. Education § 20-26-11-32, <https://codes.findlaw.com/in/title-20-education/in-code-sect-20-26-11-32.html> (accessed 26 June 2023).

⁷⁶ Indiana Code Title 20 Education, §20-26-11-5-6.5, 13, 17,32, <https://codes.findlaw.com/in/title-20-education/#Itid=N1045C4307FFE11DB8132CD13D2280436> (accessed 26 June, 2023).

⁷⁷ Indiana Department of Education, Public Corporation Transfer Report, www.in.gov/doe/files/Archived-Public-Corp-Transfer-Report.pdf (accessed 26 June 2023).

⁷⁸ Dale Chu with contributions from Ben Scafidi, "Indiana's Property Tax, Choice, and Accountability Reforms: Their Consequences for Funding and Student Achievement," John Hopkins School of Education, December 2019, <https://jscholarship.library.jhu.edu/bitstream/handle/1774.2/62959/indianapropertytaxreform.pdf?sequence=1> (accessed 26 June 2023).

⁷⁹ Smith, Barnard, Campbell, "Public education funding without boundaries: How to get K-12 dollars to follow open enrollment students."

enrollment. In fact, the number of cross-district transfers grew from 3,000 participants in 2008 to 75,000 participants in 2021.⁸⁰

Yet state policymakers can improve their open enrollment options in three main ways:

- Require all districts to participate in statewide cross-district open enrollment.
- Require all districts to participate in statewide within-district open enrollment.
- Require the SEA to publish the reason why transfer applications were rejected.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

⁸⁰ Fall 2021-2022 Public Corporation Transfer Report. Indiana Department of Education. www.in.gov/doe/it/data-center-and-reports/?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term= (accessed 26 June 2023).

Iowa is one of 16 states that meet Reason's cross-district open enrollment goal.

All districts are required to participate in statewide cross-district open enrollment. Districts are required to accept transfer students unless they lack capacity to accommodate them. During student selection, districts can prioritize transfer applicants who would facilitate a court-ordered desegregation plan and those who recently moved outside the district.

However, the Hawkeye State does not have any within-district open enrollment options. While the SEA collects data on the number of transfer students, it doesn't collect data regarding the reasons transfer student applications were rejected. Moreover, districts are not required to post their available capacity on their websites. There is no provision against charging tuition to transfer students.⁸¹ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to five years and fined up to \$7,500.⁸²

Iowa policymakers can improve their open enrollment options in three main ways:

- Require districts to participate in statewide within-district open enrollment.
- Require districts to publish their available capacity on their websites.
- Require districts to publish and collect data about the number of transfer students and the reasons why transfer applications were rejected.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

⁸¹ Iowa Code 2021, Title VII Education and Cultural Affairs, §282.18 Open Enrollment, www.legis.iowa.gov/docs/code/282.18.pdf (accessed 26 June 2023); Iowa Administrative Code, Education 281, Chapter 17 Open Enrollment, www.legis.iowa.gov/docs/ACO/chapter/281.17.pdf (accessed 26 June 2023).

⁸² DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

Kansas is an outstanding example of robust open enrollment.

While Kansas does not currently require school districts to have cross-district or within-district open enrollment options, a new law passed in 2022 will require all school districts to participate in statewide cross-district open enrollment beginning with the 2024-2025 academic year. Under the new law, school districts can only reject transfer applicants due to insufficient capacity, and they cannot charge transfer students tuition. School districts must report their capacity and publish the number of open seats by grade level for each school on the district website on or before June 1st annually. If the number of applications exceeds available capacity, then transfer students must be admitted through a confidential randomized lottery. Schools can prioritize the siblings of current transfer students for admission. Transfer students can remain in their non-residential school until graduation unless they are no longer in good standing.

Every year the Kansas Department of Education must report the number of transfer applications that are accepted or rejected and if the reason for the applications' rejections was due to capacity. These open enrollment data must be posted on the SEA website and made available to the legislative division of post audit. As part of its annual enrollment audit, the SEA will audit school capacity and non-resident student enrollment. In addition to the annual enrollment audit, the legislative post will conduct an audit of open enrollment transfers by 2027. The findings of this audit must be reported by January 15, 2028 to the House Standing Committee on K-12 education budget and the Senate Standing Committee on education.⁸³

The Sunflower State can improve its open enrollment options in three main ways:

- Require districts to participate in statewide within-district open enrollment, posting relevant information on district websites.
- Expand the transfer application period to year round (currently transfer applications are only accepted between June 1st to 30th).
- Implement quarterly audits of school district capacity.

⁸³ Senate Substitute for House Bill No. 2567, www.kslegislature.org/li/b2021_22/measures/documents/hb2567_enrolled.pdf (accessed 26 June 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✗
Transparent Reporting by the State Education Agency (SEA)	✓
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	✓

Kentucky's open enrollment policy falls short on all counts.

As of July 2022, Kentucky requires all boards of education to establish a voluntary cross-district open enrollment policy. In fact, school districts can adopt a policy to not accept any transfer students.⁸⁴ Districts are not allowed to discriminate against transfer applicants, but can reject them if schools have reached capacity. Boards of education must notify the SEA of their open enrollment policy within 30 days of their adoption and subsequent changes to it.

According to the policy, any student who transfers is not permitted to participate in school sports for a calendar year.⁸⁵

School districts can charge transfer students a “reasonable tuition fee,” which must be paid by the sending district, pending their approval of the transfer. If a sending district determines that student transfers to another district are convenient, it can enter into a tuition contract with the receiving district.⁸⁶

The Bluegrass State does not require districts to post their available capacity, nor that the SEA collect and publicly report important open enrollment data, such as the number of transfer students and the reasons why transfer applications were rejected.

State policymakers can improve Kentucky's open enrollment policy in three main ways:

- Require districts to participate in statewide cross-district open enrollment, posting relevant information on district websites.
- Require districts to participate in statewide within-district open enrollment, posting relevant information on district websites.
- Require districts to post their available capacity on district websites.

⁸⁴ Kentucky Department of Education, “Non-Resident Student Policy,” May 17, 2023, <https://education.ky.gov/districts/enrol/Pages/Nonresident-Student-Policy.aspx?View=Non-Resident%20Policy&Title=Non-Resident%20Policies&Page=0> (accessed 23 June 2023).

⁸⁵ Kentucky Revised Statutes 2021, Chapter 157, §157.350, <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=51402> (accessed 26 June 2023).

⁸⁶ Kentucky Revised Statutes 2021, Chapter 159, §159.070, <https://law.justia.com/codes/kentucky/2021/chapter-159/section-159-070/> (accessed 26 June 2023); Kentucky Revised Statutes 2021, Chapter 158 §158.120, <https://law.justia.com/codes/kentucky/2021/chapter-158/section-158-120/> (accessed 26 June, 2023).

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

Louisiana needs to strengthen its open enrollment options.

Louisiana permits voluntary cross-district and within-district open enrollment for eligible students assigned to public schools whose performance grades are “D” or “F” so long as they seek to transfer to a school rated as “A”, “B”, or “C” with available capacity. Districts must post their open enrollment policies and processes on their website. Moreover, the SEA collects and annually publishes open enrollment data, including the number of transfer requests received, accepted, appealed, and denied during the most recent school year. School districts cannot charge tuition to transfer students.⁸⁷

In addition to the Public School Choice Option, the Pelican State permits open enrollment when a student’s residentially assigned school is “labeled an academically unacceptable school for four consecutive years.”⁸⁸ Under these circumstances, schools are no longer under the jurisdiction of their parish, city, local school board, or other education entity. Instead they are placed under the jurisdiction of a Recovery School District. This occurs “when a school performs poorly for four consecutive years, fails to comply with the state reconstitution plan, presents an unacceptable reconstitution plan, or fails to present a plan to reconstitute the failed school to the state board.”⁸⁹ Schools reassigned to a Recovery School District remain under its jurisdiction for at least five years. Students assigned to schools under the jurisdiction of a Recovery School District are not required to remain enrolled; instead, these students are immediately eligible for within-district open enrollment.

The Pelican State can improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, regardless of school status.
- Require all districts to participate in within-district open enrollment, regardless of school status.
- Requires districts to post their available capacity on their website.

⁸⁷ Louisiana State Legislature, RS 17 §4035.1. Public school choice, <https://legis.la.gov/legis/Law.aspx?p=y&d=920128> (accessed 26 June 2023).

⁸⁸ Louisiana State Legislature, LA Rev Stat § 17:10.5 (2021), <https://law.justia.com/codes/louisiana/2021/revised-statutes/title-17/rs-10-5/> (accessed 26 June 2023).

⁸⁹ Ibid.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

Maine meets none of Reason's best practices goals.

Maine does not permit cross-district or within-district open enrollment. While cross-district and within-district transfers can occur under special circumstances or if two school districts create an agreement, these policies fail to establish anything resembling a comprehensive open enrollment policy. Accordingly, districts are not required to post the available capacity on their websites. While the SEA tracks the number of transfer students, it does not collect or publish why transfer applications were rejected. Moreover, the Pine Tree State does not stop districts from charging students tuition.⁹⁰

Maine policymakers can improve their open enrollment options in three key ways:

- Require districts to participate in cross-district open enrollment, posting policies and procedures on their websites.
- Require districts to participate in within-district open enrollment, posting policies and procedures on their websites.
- Require schools to post their available capacity on their district websites.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

⁹⁰ Maine Legislature, Maine Revised Statutes, Title 20-A Education, Part 3 Elementary and Secondary Education, Chapter 213 Student Eligibility, §5205 Other Exceptions to General Residency Rules, www.mainelegislature.org/legis/statutes/20-a/title20-Asec5205.html (accessed 26 June 2023).

Maryland is one of the few states with no open enrollment options.

The Old Line State has no cross-district or within-district open enrollment options. School districts are not required to post their available capacity, nor are there provisions against charging transfer students tuition. The SEA does not collect or publish open enrollment data, such as the number of transfer students or the reasons transfer applications were rejected.⁹¹

Maryland policymakers can improve the state’s open enrollment options in three main ways:

- Establish statewide cross-district open enrollment, requiring districts to post open enrollment policies and procedures on their websites.
- Establish statewide within-district open enrollment, requiring districts to post open enrollment policies and procedures on their websites.
- Require districts to post their available capacity on their websites.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

⁹¹ Code of Maryland Regulations, Title 13a, Subtitle 08, Chapter 13a.08.01, Section 13a.08.01.20. Unsafe School Transfer Policy, <http://mdrules.elaws.us/comar/13a.08.01.20> (accessed 26 June 2023); Congressional Research Service, “Overview of Public and Private School Choice Options.”

Massachusetts' voluntary programs fall short of good policy.

School districts in Massachusetts are not required to participate in the state's voluntary within-district and cross-district open enrollment options. Districts that do participate must enroll transfers so long as capacity is available (within-district transfers can be prioritized). Each district establishes its own process for selecting students; however, when applications exceed available seats, a lottery is implemented. Transfer students can remain in their non-assigned school until graduation, unless there is insufficient funding.⁹²

The Bay State does not require districts to publish their available capacity nor does the SEA publish open enrollment data. However, the SEA collects various open enrollment data, such as the number of transfer students.⁹³ At the same time, districts cannot charge tuition to transfer students.⁹⁴

Massachusetts policymakers can improve their open enrollment options in three main ways:

- Require districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.
- Require districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require the SEA to publish all pertinent open enrollment data.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

⁹² Commonwealth of Massachusetts, General Laws, Part I, Title XII, Chapter 76, § 12, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter76/Section12> (accessed 26 June 2023); Commonwealth of Massachusetts, General Laws, Part I, Title XII, Chapter 76, § 12a, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter76/Section12A> (accessed 26 June 2023).

⁹³ Massachusetts Department of Elementary and Secondary Education, SIMS Summary Report Explanation, www.doe.mass.edu/infoservices/data/sims/sumreports.html (accessed 26 June 2023).

⁹⁴ Commonwealth of Massachusetts, General Laws, Part I, Title XII, Chapter 76 § 12b(e), <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter76/section12B> (accessed 26 June 2023).

Michigan is the only state to financially penalize districts for opting out of open enrollment.

School districts are not required to participate in cross-district or within-district open enrollment. However, if districts choose to not participate, they lose 5% of their state funding. While most school districts participate in open enrollment, many limit the number of transfer students through artificial caps.⁹⁵ Within-district open enrollment is only mandatory when a school remains unaccredited for three consecutive years. Districts are required to publish information about their open enrollment options, but not necessarily on their websites.⁹⁶ Districts prioritize transfer applications from former transfer students and those from the same home. In the case of oversubscription, districts implement a waiting list and determine admission through randomized lotteries.⁹⁷ While districts participating in open enrollment cannot charge transfer students tuition, districts that have opted out of open enrollment can charge tuition to transfer students.⁹⁸ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to 30 days and fined up to \$50.⁹⁹

Unfortunately, the Great Lakes State does not require districts to publicly report their available capacity on their websites. The SEA is not required to collect or publish data about open enrollment, such as the number of transfer students or the reasons why applications were rejected.

Michigan can improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.

⁹⁵ Jude Schwalbach, “Open enrollment should be part of Michigan’s education reforms,” Reason Foundation, Commentary, March 30, 2023, <https://reason.org/commentary/open-enrollment-should-be-part-of-michigans-education-reforms/> (accessed 23 June 2023).

⁹⁶ Michigan Legislature, Michigan Compiled Laws § 388.1705c Sec 105c. Enrollment by nonresident applicants residing in district located in a contiguous intermediate district. [www.legislature.mi.gov/\(S\(1tzmxq3f2ugcb3b5ix11jrg\)\)/mileg.aspx?page=GetObject&objectname=mcl-388-1705c](http://www.legislature.mi.gov/(S(1tzmxq3f2ugcb3b5ix11jrg))/mileg.aspx?page=GetObject&objectname=mcl-388-1705c) (accessed 26 June 2023).

⁹⁷ Ibid.

⁹⁸ Michigan Legislature, Michigan Compiled Laws § 380.1401 Admission of nonresident pupils; determination of tuition rates; collection of tuition; limitations on tuition. [www.legislature.mi.gov/\(S\(21rvz3trfojkz5sh4hrslr1t\)\)/mileg.aspx?page=GetObject&objectname=mcl-380-1401#:~:text=Sec.,and%20shall%20collect%20the%20tuition](http://www.legislature.mi.gov/(S(21rvz3trfojkz5sh4hrslr1t))/mileg.aspx?page=GetObject&objectname=mcl-380-1401#:~:text=Sec.,and%20shall%20collect%20the%20tuition) (accessed 26 June 2023).

⁹⁹ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

- Require districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require districts to post their available capacity on their websites.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

Minnesota's open enrollment options fall short.

School districts in Minnesota must participate in statewide cross-district open enrollment, but are not required to post their open enrollment policies or procedures online. A school district can limit the number of transfer students to a “number not less than the lesser of: one percent of the total enrollment at each grade level in the district; or the number of district residents at that grade level enrolled in a nonresident district.”¹⁰⁰ As a result, Minnesota's policy falls short of Reason's best practices since school districts can limit the number of transfer students even if they have open seats. According to the SEA website, transfer applicants offered an open seat must accept or decline it within 10 business days.¹⁰¹

In student selection, Minnesota statute requires districts to prioritize “enrolling siblings of currently enrolled students, students whose applications are related to an approved integration and achievement plan, children of the school district's staff” and students living under unique circumstances. Nearly 10% of students utilized Minnesota's cross-district option during the 2020-2021 school year.¹⁰² Districts cannot charge fees to transfer students.¹⁰³ Parents, however, who falsify their address for unsanctioned student transfers can be incarcerated for up to 90 days and fined up to \$1,000.¹⁰⁴

The North Star State does not have a statewide within-district open enrollment option and districts are not required to post their available capacity on their websites.¹⁰⁵ While the SEA does not publish all pertinent open enrollment data, it does collect important information, such as the number of rejected transfer applications due to a lack of capacity.¹⁰⁶

Minnesota policymakers can improve their open enrollment options in three main ways:

¹⁰⁰ Minnesota Statutes Education Code: Prekindergarten-Grade 12 (Ch. 120-129C) § 124D.03. Enrollment options program, <https://codes.findlaw.com/mn/education-code-prekindergarten-grade-12-ch-120-129c/mn-st-sect-124d-03.html> (accessed 26 June 2023).

¹⁰¹ “Minnesota Department of Education, Students and Families, “Open Enrollment,” <https://education.mn.gov/MDE/fam/open/> (accessed 6 September 2023).

¹⁰² Ibid.

¹⁰³ Minnesota Statutes Education Code: Prekindergarten-Grade 12 (Ch. 120-129C) § 123B.37. Prohibited fees, <https://codes.findlaw.com/mn/education-code-prekindergarten-grade-12-ch-120-129c/mn-st-sect-123b-37.html> (accessed 26 June 2023).

¹⁰⁴ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

¹⁰⁵ Minnesota Department of Education, “Open Enrollment.”

¹⁰⁶ Minnesota Statutes Education Code: Prekindergarten-Grade 12 (Ch. 120-129C) § 124D.03. Enrollment options program.

- Require districts to post their cross-district and within-district open enrollment policies and procedures on their websites.
- Remove all participation caps from cross-district open enrollment.
- Require the SEA to publish pertinent open enrollment data.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

Mississippi's open enrollment option falls short of comprehensive policy.

Although Mississippi permits students to transfer to another school district, their families must obtain the mutual consent of both the sending and receiving school districts. Neither district is required to give consent regardless of their available capacity since participation is voluntary. However, districts cannot charge transfer students tuition. Yet parents who falsify their address for unsanctioned student transfers can be incarcerated for up to five years or fined up to \$1,000.¹⁰⁷ Siblings of transfer students can also transfer to the non-resident school district. The receiving school district will administer a standardized test to determine in which grade the transfer student should be enrolled.¹⁰⁸ Cross-district transfer students are only guaranteed admission if attending their assigned school would require them to travel 30 miles and a school in an adjoining district is closer.¹⁰⁹

The Magnolia State does not provide a within-district transfer option, nor does it require districts to post their available capacity. The SEA collects some data about transfer students, but it is limited in scope and is not necessarily published.

Mississippi policymakers can improve open enrollment in three main ways:

- Require districts to participate in statewide cross-district open enrollment and post their policies or procedures online.
- Require districts to participate in statewide within-district open enrollment and post their policies and procedures online.
- Require districts to post their available capacity on their websites.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

¹⁰⁷ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

¹⁰⁸ Mississippi Code Title 37. Education § 37-15-33. Standardized tests for transferring pupils <https://codes.findlaw.com/ms/title-37-education/ms-code-sect-37-15-33.html> (accessed 26 June 2023).

¹⁰⁹ Mississippi Code Title 37. Education § 37-15-29. Enrollment or attendance location; residence; exceptions, <https://codes.findlaw.com/ms/title-37-education/ms-code-sect-37-15-29.html> (accessed 26 June 2023).

Missouri does not meet any of Reason's best practices goals.

Missouri operates a voluntary cross-district transfer program called the Metropolitan Schools Achieving Value in Transfer Corporation. This program allows students assigned to school districts in St. Louis to transfer to schools in other participating districts.¹¹⁰

Only unaccredited school districts (districts that fail to meet Missouri standards for academic or financial reasons) are required to participate in mandatory cross-district open enrollment.¹¹¹ Under these circumstances, approved districts in the same county or adjoining counties must post their transfer policies and procedures, and their available capacity on their websites. Transfer students from unaccredited districts are not charged the cost of tuition. Although the SEA announced in 2023 that more than 100 school districts scored in the provisionally accredited or unaccredited score range under the state's new accountability system, scores will not officially affect school districts' accreditation status until the end of the 2023-2024 school year.¹¹² Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to one year and fined up to \$10,000.¹¹³

The Show Me State can improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting their policies and procedures online.
- Require all districts to post their available capacity on their websites.

¹¹⁰ Missouri Revised Statutes, Title XI Education and Libraries, 162.1060, Transfer corporation, board, powers and duties, funding – termination of corporation, funds to lapse to general revenue – regional attendance zones, <https://revisor.mo.gov/main/OneSection.aspx?section=162.1060> (accessed 26 June 2023).

¹¹¹ Missouri Department of Elementary and Secondary Education, Transfer Guidance, "Guidance for Student Transfers from Unaccredited Districts to Accredited School Districts and Approved Charter Schools," Revised June 28, 2016, www.dese.mo.gov/media/pdf/transfer-guidance (accessed 26 June 2023).

¹¹² Kate Grumke, "Missouri just released new school performance data. Here's what to know about the declines," St. Louis Public Radio, March 7, 2023, <https://www.kcur.org/education/2023-03-07/missouri-just-released-new-school-performance-data-heres-what-to-know-about-the-declines> (accessed 6 September 2023).

¹¹³ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X

Nevada does not meet any of Reason's best practices policy goals.

Nevada permits voluntary cross-district transfers to schools in adjoining districts so long as the transfer student obtains permission from the receiving district's superintendent. With the approval of the superintendent of public instruction, the sending district can pay for the transfer student's tuition if there is an agreement with the receiving district.¹¹⁴

The Silver State does not require districts to post their available capacity. The SEA is not required to collect or publish pertinent open enrollment information. Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to six months, fined \$1,000, or serve community service.¹¹⁵

Nevada policymakers could improve their open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, requiring them to post their policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting all their policies and procedures online.
- Require districts to publicly report their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹¹⁴ Nevada State Code, Chapter 388 System of Public Instruction, NRS 388.040, <https://www.leg.state.nv.us/nrs/nrs-388.html#NRS388Sec040> (accessed 26 June 2023).

¹¹⁵ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

New Hampshire does not meet most of Reason's best practices policy goals.

Participation in cross-district and within-district open enrollment is voluntary for school districts in New Hampshire. They can predetermine the percentage of transfer students they admit or permit to leave. Moreover, districts can set varying criteria for student selection, including academic aptitude. While districts can prioritize within-district transfers during student selections, in the case of oversubscription, schools must implement a lottery.

The Granite State does not allow school districts to charge transfer students tuition. However, the state falls short of good transparency policy since school districts are not required to post their available capacity, and the SEA does not collect or publish open enrollment data.¹¹⁶

New Hampshire policymakers can improve their open enrollment policy in three main ways:

- Require districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require districts to participate in within-district open enrollment, posting policies and procedures online.
- Require districts to post their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

¹¹⁶ RSA 194-D <http://www.gencourt.state.nh.us/rsa/html/XV/194-D/194-D-mrg.htm> (accessed 26 June 2023).

New Jersey does not meet any of Reason's best practices policy goals.

New Jersey operates a voluntary cross-district open enrollment option.¹¹⁷ During the 2024-2025 school year, roughly 20% of New Jersey school districts participate in it.¹¹⁸ Students must have been enrolled in their assigned school to be eligible to participate in the program. Schools can only participate if they have available capacity and have been approved by the commissioner for program participation.¹¹⁹ Districts can prioritize the siblings of currently enrolled transfer students during student selection, but must use a lottery in the case of oversubscription.

Schools participating in cross-district open enrollment annually report various open enrollment data, such as the number of available seats, to the Department of Education. Also, each year the commissioner makes a public report regarding the effectiveness of cross-district open enrollment.¹²⁰ Any school district that does not participate in open enrollment, however, can charge tuition to transfer students.¹²¹ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to six months and fined up to \$1,000.¹²²

The Garden State can improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting policies and procedures online.
- Require school districts to post their available capacity online.

¹¹⁷ N.J.A.C. 6A:12, Interdistrict Public School Choice, www.nj.gov/education/code/current/title6a/chap12.pdf (accessed 26 June 2023).

¹¹⁸ New Jersey Department of Education, "Interdistrict Public School Choice," www.nj.gov/education/choice/ (accessed 26 June 2023).

¹¹⁹ New Jersey Department of Education, Interdistrict Public School Choice Program, "Policy and FAQs," www.nj.gov/education/choice/cdistricts/faq/#Tuitionandchoiceprograms (accessed 26 June 2023).

¹²⁰ N.J.A.C. 6A:12, New Jersey Department of Education, Interdistrict Public School Choice.

¹²¹ 2021 New Jersey Revised Statutes, Title 18A - Education, Section 18A:38-19 - Tuition of pupils attending schools in another district, <https://law.justia.com/codes/new-jersey/2021/title-18a/section-18a-38-19/> (accessed 26 June 2023).

¹²² DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

New Mexico does not meet any of Reason's best practices policy goals.

New Mexico permits voluntary cross-district and within-district open enrollment for only some students, namely, those assigned to schools rated “F” for two of the last four years. With a few exceptions, districts must prioritize within-district transfers and those in military families when selecting students. Schools must accept transfer students so long as they do not exceed the maximum class size set by the state or district.¹²³

School districts in the Land of Enchantment are not required to post their available capacity online. At the same time, the SEA is not required to collect or publish important open enrollment data.

New Mexico policymakers can improve open enrollment in three main ways:

- Require all districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting policies and procedures online.
- Require districts to post their available capacity online.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹²³ New Mexico Statutes Chapter 22. Public Schools § 22-1-4. Free public schools; exceptions; withdrawing and enrolling; open enrollment, <https://codes.findlaw.com/nm/chapter-22-public-schools/nm-st-sect-22-1-4.html> (accessed 27 June 2023); New Mexico Statutes Chapter 22. Public Schools § 22-12A-5. Public school attendance, <https://codes.findlaw.com/nm/chapter-22-public-schools/nm-st-sect-22-12a-5.html> (accessed 27 June 2023).

New York does not meet any of Reason's best practices policy goals.

New York permits voluntary cross-district open enrollment through its Urban-Suburban Interdistrict Transfer Program. The state also permits cross-district transfers for students assigned to persistently dangerous schools.¹²⁴

To participate in the program, districts must prove that (1) they anticipated declines in minority students and that allowing transfer students will improve diversity (2) resident students enrolled in nonpublic schools will have an equitable opportunity to participate in the transfer program. Districts are not permitted to accept transfer students on the basis that they may improve nonacademic programs if the student has a handicap, attendance issues, or disciplinary concern that the school cannot support.¹²⁵ Only 16 out of 731 New York school districts participate in the program.¹²⁶ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to seven years.¹²⁷

The Empire State could improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting policies and procedures online.
- Require districts to post their available capacity online.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹²⁴ The Laws of New York, Consolidated Laws of New York, Chapter 16 Education, Title 5 Taxation and Financial Administration, Article 73 Apportionment of Public Moneys ,Part 1 General Provisions, §3602, www.nysenate.gov/legislation/laws/EDN/3602 (accessed 27 June 2023); Casetext, N.Y. Comp. Codes R. & Regs. tit. 8 § 175.24, <https://casetext.com/regulation/new-york-codes-rules-and-regulations/title-8-education-department/chapter-ii-regulations-of-the-commissioner/subchapter-l-finance/part-175-state-aid/section-17524-voluntary-interdistrict-urban-suburban-transfer-program> (accessed 27 June 2023).

¹²⁵ Ibid.

¹²⁶ Monroe One, Urban-Suburban, Interdistrict Transfer Program, www.monroe.edu/Page/2639 (accessed 6 September 2023); New York State Department of Education, “New York State Education at a Glance,” <https://data.nysed.gov/> (there are 731 school districts) (accessed 27 June 2023).

¹²⁷ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

North Carolina is one of the few states without any open enrollment options.

The Tar Heel State does not have any open enrollment options.¹²⁸ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to 120 days, and fined at the court’s discretion.¹²⁹

North Carolina policymakers can improve open enrollment in three key ways:

- Require all districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting policies and procedures online.
- Require districts to post their available capacity online.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹²⁸ Congressional Research Service, “Overview of Public and Private School Choice Options.”

¹²⁹ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

Ohio has a robust within-district open enrollment option.

Ohio permits voluntary cross-district open enrollment. Each school district must set one of the following policies: prohibiting any cross-district transfers (unless tuition is paid for the child), permitting transfers from adjacent districts, or permitting transfers from any district. Districts that prohibit cross-district transfers can admit non-residentially assigned students who can pay the cost of tuition.¹³⁰ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to three years.¹³¹

At the same time, the Buckeye State requires all districts to have a within-district transfer policy in place if there is more than one school building serving the same grades inside the district. Districts that have a within-district policy must annually inform parents of their education options; however, it is unclear if school districts must post this information on their website. While reviewing applications, school districts must prioritize those from the resident district and returning students. However, districts have significant discretion in how the within-district policy is implemented.¹³²

Although the SEA publicly reports which districts participate in open enrollment and to what degree, they do not track why transfer applications were rejected.¹³³ Nor are districts required to publicly report their available capacity.

Ohio policymakers can improve their open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment.
- Require the SEA to publish data showing the number of transfer students and the reasons why transfer applications were rejected.

¹³⁰ Ohio Laws & Administrative Rules, Ohio Revised Code, Title 33 Education-Libraries, Chapter 3313 Boards of Education, §3313.97, <https://codes.ohio.gov/ohio-revised-code/section-3313.97> (accessed 27 June 2023); §3313.98, <https://codes.ohio.gov/ohio-revised-code/section-3313.98> (accessed 27 June 2023); §3313.981, <https://codes.ohio.gov/ohio-revised-code/section-3313.981> (accessed 27 June 2023).

¹³¹ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

¹³² Open Enrollment, Overview and Explanation, February 2015, <https://education.ohio.gov/getattachment/Topics/School-Choice/Public-Schools/Forms-and-Program-Information-for-Traditional-Publ/OE-Overview-February-2015.pdf.aspx> (accessed 27 June 2023).

¹³³ Ohio Laws & Administrative Rules, Ohio Revised Code, Title 33 Education-Libraries, Chapter 3317 Foundation Program, §3317.08, <https://codes.ohio.gov/ohio-revised-code/section-3317.08> (accessed 27 June 2023); Deven Carlson, “Open Enrollment and Student Diversity in Ohio’s Schools,” Thomas B. Fordham Institute, January 2021, www.fordhaminstitute.org/ohio/research/open-enrollment-and-student-diversity-ohios-schools (accessed 27 June 2023).

- Require districts to publicly report their available capacity and post their policies and procedures on their websites.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

Oklahoma has one of the best cross-district open enrollment policies in the nation.

In Oklahoma, all districts must participate in statewide cross-district open enrollment. Students can transfer between districts at any time unless the number of transfer applicants exceeds the capacity in the districts' respective grade levels in each school.¹³⁴ If the number of transfer applications exceeds the available spots, then applications are accepted on a first-come-first-served basis. If a student's grade level is not offered in their school district, then their transfer application is automatically approved.¹³⁵ Districts can prioritize applications from school employees and the siblings of current students. School districts cannot charge transfer students tuition.¹³⁶ Parents, however, who falsify their address for unsanctioned student transfers can be incarcerated for up to one year and fined up to \$500.¹³⁷

School districts must reevaluate the available number of seats on a quarterly basis (January 1, April 1, July 1, October 1) in each grade level. The school district website must reflect the updated number of open spots after each quarter.¹³⁸

The Sooner State requires that districts comply with robust accountability requirements. Specifically, school districts must report to the SEA the number of transfer students by grade level that they can accept, the number of transfer applications rejected, and the reasons for each rejection. The SEA must also publish open enrollment data online and provide it to the Office of Educational Quality and Accountability, which conducts quarterly randomized audits of 10% of Oklahoma's school districts, reviewing the school districts' records for accepting or rejecting transfer students. If a school district fails its audit, then the Office of Educational Quality and Accountability will set a new capacity limit for the district.¹³⁹

Oklahoma's SEA report, however, has a notable shortcoming. Although the Oklahoma State Department of Education publishes an annual report about open enrollment, it only

¹³⁴ Oklahoma Statutes, Title 70. Schools, Article VIII - Transfer of Pupils, Section 8-101.2, <https://law.justia.com/codes/oklahoma/2021/title-70/section-70-8-101-2/> (accessed 27 June 2023).

¹³⁵ Ibid.

¹³⁶ Oklahoma Statutes, Title 70. Schools, Article VIII - Transfer of Pupils, Section 8-112 - Student Transfer Fees, <https://law.justia.com/codes/oklahoma/2021/title-70/section-70-8-112/> (accessed 27 June 2023).

¹³⁷ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

¹³⁸ Oklahoma Statutes Title 70, Article VIII - Transfer of Pupils Section 8-101.2.

¹³⁹ Ibid.

provides data about transfer students from the most recent academic quarter. Without long-term data, policymakers cannot make informed decisions to refine the open enrollment law.

Oklahoma policymakers can improve open enrollment in three main ways:

- Require all districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Stop requiring transfer students to reapply to the program each year.
- Hold school districts that fail to publicly report their available capacity accountable and require the SEA to post all open enrollment reports.¹⁴⁰

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✗
Transparent Reporting by the State Education Agency (SEA)	✓
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	✓

¹⁴⁰ The Oklahoma Council for Public Affairs' Ray Carter reported that many school districts currently flout the state's capacity reporting requirements. Looking at 21 school districts in four counties, Carter found that "16 [school districts] do not appear to be publicly reporting open-transfer capacity," Ray Carter, "Oklahoma Open-Transfer Law Benefitting Few Students," Oklahoma Council for Public Affairs, February 18, 2022, www.ocpathink.org/post/oklahoma-open-transfer-law-benefitting-few-students (accessed 27 June 2023).

Oregon does not meet any of Reason's best practices policy goals.

Oregon sunsetted its cross-district open enrollment option in 2019. The Beaver State does permit voluntary cross-district transfers to occur when districts contract with each other or when special circumstances arise for students, such as homelessness, documented cyberbullying or severe harassment, a parent's death or military deployment, a student's medical condition, or the availability of safe and affordable childcare for the student. Under these circumstances, school districts can prioritize the siblings of current transfer students or those students who received permission to remain enrolled even though they experienced a change in address.¹⁴¹

Oregon policymakers can improve open enrollment in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to publicly post online their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹⁴¹ Oregon Legislature, Chapter 339 – School Attendance; Admission; Discipline; Safety, 2021 Edition, 339.125, 339.127-128, 339.155, www.oregonlegislature.gov/bills_laws/ors/ors339.html (accessed 27 June 2023); Oregon Secretary of State, Oregon Department of Education, 581-021-0019 Interdistrict Transfer Agreement, https://secure.sos.state.or.us/oard/viewSingleRule.action;JSESSIONID_OARD=oFVdECCrQwTmveSDYbretX7qm8imra56QjvdkmnH7XxVVqmkkQJz!327936764?ruleVrsnRsn=144548 (accessed 27 June 2023).

Pennsylvania meets only one of Reason's best practices policy goals.

In Pennsylvania, voluntary cross-district open enrollment may occur with the permission of the receiving district so long as it is more convenient for the transfer student. However, transfer students must live at least 1.5 miles or more from their assigned school. When a cross-district transfer is considered convenient, the sending district must pay the receiving district the cost of tuition.¹⁴² Voluntary within-district transfers are permitted so long as parents can show good cause to the school board, which can reassign the transfer student to any other school in the district.¹⁴³

While the state lacks important transparency reporting, it does not allow school districts to charge tuition to cross-district transfer students' families. Yet parents who falsify their address for unsanctioned student transfers can be fined up to \$500.¹⁴⁴

The Keystone State can improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to publicly post online their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

¹⁴² Pennsylvania Statutes Title 24 P.S. Education § 13-1313. Attendance in other districts, <https://codes.findlaw.com/pa/title-24-ps-education/pa-st-sect-24-13-1313.html> (accessed 27 June 2023); Pennsylvania Statutes Title 24 P.S. Education § 13-1316. Permitting attendance of non-resident pupils, <https://codes.findlaw.com/pa/title-24-ps-education/pa-st-sect-24-13-1316.html> (accessed 27 June 2023).

¹⁴³ Pennsylvania Statutes Title 24 P.S. Education § 13-1310. Assignment of pupils to schools, <https://codes.findlaw.com/pa/title-24-ps-education/pa-st-sect-24-13-1310.html> (accessed 27 June 2023).

¹⁴⁴ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

Rhode Island does not meet most of Reason's best practices policy goals.

Voluntary cross-district and within-district open enrollment are permitted when the school committee of any city or town finds that it is more convenient for a residentially assigned student to transfer to a school in an adjoining city or town. The sending school district pays the cost of tuition.¹⁴⁵

The Ocean State could improve its open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to publicly post online their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

¹⁴⁵ R.I. Gen. Laws § 16-2-19, <http://webserver.rilin.state.ri.us/Statutes/TITLE16/16-2/16-2-19.htm> (accessed 27 June 2023); R.I. Gen. Laws § 16-21.1-1, <http://webserver.rilin.state.ri.us/Statutes/TITLE16/16-21.1/16-21.1-1.htm> (27 June 2023); R.I. Gen. Laws § 16-21.1-3, <http://webserver.rilin.state.ri.us/Statutes/TITLE16/16-21.1/16-21.1-3.htm> (27 June 2023).

South Carolina does not meet any of Reason's best practices policy goals.

South Carolina permits voluntary cross-district transfers, but gives county education officials ample discretion to deny or accept applicants from neighboring districts.¹⁴⁶ Moreover, the Palmetto State doesn't require districts to publish important data necessary to implement a robust universal open enrollment policy, such as reports on current school capacity or district rules for how transfer requests are evaluated. Moreover, the state fails to set clear guidelines for how districts are and are not allowed to evaluate transfer applications.¹⁴⁷ While district denials of student transfer applications can be overridden by a county board of education if it concludes that the denial was performed "unreasonably or capriciously," this kind of override requires a formal hearing.¹⁴⁸ It's also worth noting that South Carolina doesn't require or facilitate within-district open enrollment.

South Carolina permits districts to charge tuition to the parents or guardians of transfer students. These fees, which are based on the per-pupil revenues raised from local property taxes for operations and bonds, can be waived, however.¹⁴⁹ Parents who falsify their address for unsanctioned student transfers can be incarcerated for up to 30 days and fined up to \$500.¹⁵⁰

South Carolina policymakers can improve open enrollment in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to publicly post online their available capacity.

¹⁴⁶ South Carolina Code of Laws Unannotated Title 59 Education, Chapter 63, §59-63-490. Transfer to adjoining school district, www.scstatehouse.gov/code/t59c063.php (accessed 27 June 2023).

¹⁴⁷ South Carolina Code of Laws Unannotated Title 59 Education §59-63-40. Discrimination on account of race, creed, color, or national origin prohibited, <https://www.scstatehouse.gov/code/t59c063.php> (accessed 27 June 2023).

¹⁴⁸ South Carolina Code of Laws Unannotated Title 59 Education §59-63-217. Barring enrollment of student; grounds; notice and hearing; duration of bar, <https://www.scstatehouse.gov/code/t59c063.php> (accessed 27 June 2023).

¹⁴⁹ South Carolina Code of Laws Unannotated Title 59 Education §59-63-45. Reimbursement for attending another school district, <https://www.scstatehouse.gov/code/t59c063.php> (accessed 27 June 2023).

¹⁵⁰ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

South Dakota can easily make its open enrollment policies transparent.

South Dakota has statewide cross-district and within-district open enrollment so long as transfers do not result in overcrowding or injury to the public schools.¹⁵¹ Each school board must adopt standards regarding student acceptance or rejection. Students can only be rejected for limited reasons, such as capacity and the teacher-pupil ratio.¹⁵² Transfer applicants must apply to the Department of Education, and the school board of the receiving district must approve or reject the application and notify the applicant accordingly. Cross-district transfers can only occur prior to the last Friday in September during the first semester of any school year, and prior to the last Friday in January during the second semester of any school year.¹⁵³ Within-district transfers, on the other hand, can occur at any time during the year. South Dakota requires that school districts prioritize the siblings of current transfer students for all open enrollment admissions. The state does not require districts to post their policies or procedures for cross-district or within-district open enrollment on their websites.

While districts do publicly report the number of transfer students, the SEA does not collect data about the reasons transfer applicants were rejected. Similarly, districts are not required to post their available capacity online.¹⁵⁴ Moreover, transfer students are not entitled to a free education and could be charged tuition.¹⁵⁵

¹⁵¹ South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-21. Admission of nonresident students, https://sdlegislature.gov/Statutes/Codified_Laws/2042056 (accessed 27 June 2023); South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-40. Enrollment options program established, https://sdlegislature.gov/Statutes/Codified_Laws/2042077 (accessed 27 June 2023).

¹⁵² South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-44. Standards for acceptance or rejection of application to enroll, https://sdlegislature.gov/Statutes/Codified_Laws/2042083 (accessed 27 June 2023).

¹⁵³ South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-43. Enrollment of student in other than resident district or transfer within district--Approval and notification, https://sdlegislature.gov/Statutes/Codified_Laws/2042082 (accessed 27 June 2023).

¹⁵⁴ South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-47. Disclosure, https://sdlegislature.gov/Statutes/Codified_Laws/2042086 (accessed 27 June 2023).

¹⁵⁵ South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-22. Tuition charged for students not entitled to free school privileges of district, https://sdlegislature.gov/Statutes/Codified_Laws/2042057 (accessed 27 June 2023).

The Mount Rushmore State can improve its open enrollment options in three main ways:

- Make public schools free to all students.
- Require districts to post their available capacity and open enrollment policies and procedures on their websites.
- Require the SEA to collect and publish the reasons transfer applicants were rejected.

Best Policy	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

Tennessee is one of a handful of states that have a robust within-district open enrollment policy and implement good transparency measures.

Tennessee permits voluntary cross-district open enrollment. All transfers, however, are at the discretion of the receiving local boards of education, which can charge tuition or fees.¹⁵⁶ If the local board of education permits, parents can choose the school to which their child transfers.

The Volunteer State requires all districts to participate in statewide within-district open enrollment. Local boards of education must review all within-district transfer applications before considering any cross-district transfer applications, and decide which schools can participate based on their available capacity. At least 14 days before the start of the academic year, local boards of education must post the number of spaces available for enrollment in each school by grade, class, and program levels. Applications are approved if space is available, however, a randomized lottery is implemented in the case of oversubscription.¹⁵⁷

School districts can prioritize transfer applications for students who relocate to inside the school zone, those whose siblings are currently enrolled, or whose parents teach at the school. The state code does not require the SEA to collect or publish relevant open enrollment data, such as the reasons why transfer applications were rejected.

Tennessee policymakers can improve their open enrollment options in three main ways:

- Require districts to participate in cross-district open enrollment, posting all policies and procedures online.
- Require the SEA to collect and publish important open enrollment data.
- Don't allow districts to charge tuition.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	X

¹⁵⁶ Tenn. Code Ann. § 49-6-3104, <https://bit.ly/3RcrReP> (accessed 2 September 2022); Tenn. Code Ann. § 49-6-3003, <https://bit.ly/3KLKMuG> (accessed 27 June 2023).

¹⁵⁷ Tenn. Code Ann. § 49-2-128, <https://bit.ly/3qcqyQY> (accessed 27 June 2023).

Texas just misses having rigorous transparency reporting.

The Lone Star State does not require statewide cross-district open enrollment. Transfers occur upon the approval of both the student’s parents and the receiving school district. During the 2021-2022 school year, more than 204,000 students used the state’s student transfer option.¹⁵⁸ At the same time, Texas boasts a robust transparency system.¹⁵⁹

Voluntary within-district transfers are at the discretion of the school district.¹⁶⁰ To transfer students, parents must petition the school district, making the case for why their children should be transferred to another school (they can specify where they wish to transfer to) or why their residential school is insufficient.¹⁶¹ Based on the evidence, the school district decides to accept or reject the transfer students’ petitions.¹⁶²

Texas permits students assigned to a school that has received an “unacceptable performance rating that is made publicly available” to transfer to a school either inside or outside their assigned district.¹⁶³

The state code does not require districts to post their available capacity online and does not prevent them from charging families tuition. Parents who falsify their address for

¹⁵⁸ House Select Committee on Educational Opportunity and Enrichment, “Initial Interim Report to the Eighty-Eighth Texas Legislature,” August 2023, https://www.house.texas.gov/_media/pdf/committees/reports/88interim/House-Select-Committee-on-Educational-Opportunity-and-Enrichment-August-2023.pdf (accessed 15 August, 2023).

¹⁵⁹ Texas Education Agency, “Enrollment Trends,” <https://tea.texas.gov/reports-and-data/school-performance/accountability-research/enrollment-trends> (accessed 27 June 2023); Texas Constitution and Statutes, Education Code, Title 2, Chapter 25, Subchapter B, §25.0031-§25.0038, <https://statutes.capitol.texas.gov/?link=ED> (accessed 27 June 2023); Education Code, Title 2. Public Education, Subtitle F. Curriculum, Programs, and Services, Chapter 29. Educational Program, <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.29.htm#G> (accessed 27 June 2023).

¹⁶⁰ Texas Constitution and Statutes, Education Code, Title 2, Chapter 25.032, <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.25.htm#25.031> (accessed 27 June 2023).

¹⁶¹ Texas Constitution and Statutes, Education Code, Title 2, Chapter 25.033, <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.25.htm#25.031> (accessed 27 June 2023).

¹⁶² Texas Constitution and Statutes, Education Code, Title 2, Chapter 25.034, <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.25.htm#25.031> (accessed 27 June 2023).

¹⁶³ Texas Education Code - Education § 29.202. Eligibility, [https://codes.findlaw.com/tx/education-code/educ-sect-29-202.html#:~:text=%C2%A7%2029.202,-Texas%20Education%20Code%20%2D%20EDUC%20%C2%A7%2029.202,Eligibility&text=\(2\)%20the%20student%20becomes%20ineligible,criteria%20under%20Subsection%20\(a\)](https://codes.findlaw.com/tx/education-code/educ-sect-29-202.html#:~:text=%C2%A7%2029.202,-Texas%20Education%20Code%20%2D%20EDUC%20%C2%A7%2029.202,Eligibility&text=(2)%20the%20student%20becomes%20ineligible,criteria%20under%20Subsection%20(a)) (accessed 27 June 2023).

unsanctioned student transfers can be incarcerated for up to 10 years and fined up to \$10,000.¹⁶⁴

Texas policymakers could improve open enrollment in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require the SEA to publicly report why transfer applications were rejected.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹⁶⁴ DeRoche, Korman, and Hinds, “When Good Parents Go to Jail.”

Utah has one of the best open enrollment policies nationwide.

All Utah schools must accept cross-district and within-district transfer students if their enrollment is at or below the open enrollment threshold. At a minimum, school boards must advertise their open enrollment options; use the standard application forms established by the state board; comply with the state’s application, submission, and acceptance or rejection procedures; and provide written notification of a transfer student to the appropriate entity and written notification to parents regarding their decision.¹⁶⁵

While districts cannot charge transfer students for tuition, they can charge a \$5 fee to cover the cost of processing transfer applications. For each school in the district, the local school board must post on the school district’s website: the school’s maximum capacity; the school’s adjusted capacity; the school’s projected enrollment used in the calculation of the open enrollment threshold; actual enrollment on October 1, January 2, and April 1; the number of nonresident student enrollment requests; the number of nonresident student enrollment requests accepted; and the number of resident students transferring to another school. The SEA is not required to publish open enrollment data such as the number of transfer applicants rejected and the reasons transfer applications are rejected. Schools cannot typically transport transfer students across district boundaries.

The Beehive State can improve its open enrollment options in three main ways:

- Require the SEA to collect and publish important open enrollment data, such as the number of transfer applications and the reasons applications were rejected.
- Permit districts to transport transfer students across district boundaries.
- Conduct random audits of district capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	✗
Transparent School District Reporting	✓
States Should Ensure That Children Have Free Access to All Public Schools	✓

¹⁶⁵ Utah Code, Title 53G Public Education System—Local Administration, Chapter 6 Participation in Public Schools, Part 4 School District Enrollment, §401-407, https://le.utah.gov/xcode/Title53G/Chapter6/53G-6-P4.html?v=C53G-6-P4_2018012420180124 (accessed 27 June 2023).

Vermont meets only one of Reason's best practices policy goals.

The state requires all high schools to participate in statewide cross-district and within-district open enrollment. A sending high school board can limit the number of assigned students seeking to transfer to another district, but this cap must not be fewer than 5% of assigned students or 10 students (whichever is fewer). At the same time, the number of students transferring out of their assigned school cannot exceed either 10% or 40 students (whichever is fewer). Vermont prioritizes applications that were rejected in the previous academic year.

The Green Mountain State, however, does not allow districts to charge tuition to families. Although each district is required to announce its available capacity as of February 1st of each year, the state code does not require that districts post their available capacity online.¹⁶⁶

Vermont policymakers can improve the state's open enrollment options in three main ways:

- Require all districts to participate in cross-district open enrollment, eliminating any artificial caps on the number of transfer students.
- Require all districts to participate in within-district open enrollment, eliminating any artificial caps on the number of transfer students.
- Require all districts to post their policies and procedures on their websites.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

¹⁶⁶ Vermont Statutes Online, 16 V.S.A. § 821, 822a, 1222, <https://legislature.vermont.gov/statutes/title/16> (accessed 27 June 2023).

Virginia's open enrollment policies are very weak.

Virginia has no cross-district open enrollment. However, the state does have a limited voluntary within-district open enrollment policy. Districts allowing within-district transfers must post their policies and procedures on their websites. Yet districts can prohibit their own employees from advertising their open enrollment options. Districts can prioritize the transfer applications of students whose attendance zone changed in the past two years, siblings of students currently attending the school, and the children of school personnel.¹⁶⁷

The state code does not prevent districts from charging transfer students tuition. Nor does the code require them to post their available capacity online.¹⁶⁸

Old Dominion policymakers can improve open enrollment in three main ways:

- Require all districts to participate in cross-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to participate in within-district open enrollment, posting their policies and procedures on their websites.
- Require all districts to publicly post online their available capacity.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹⁶⁷ Code of Virginia, Title 22, § 22.1-7.1. Open school enrollment policy, <https://law.lis.virginia.gov/vacode/title22.1/chapter1/section22.1-7.1/> (accessed 27 June 2023).

¹⁶⁸ Virginia Code Title 22.1. Education §22.1-3, §22.1-3.3, §22.1-7.1, <https://codes.findlaw.com/va/title-22-1-education/#!tid=NC3D4F0608F8B11DBAEB0F162C0EFAF87> (accessed 27 June 2023).

Washington meets one of Reason's best practices policy goals.

Washington State permits a voluntary cross-district open enrollment under limited conditions, such as the receiving school district being closer to a parent's work or if attending the non-resident district would significantly improve financial, health, or education conditions for the student. However, districts can reject transfer applicants if their acceptance would result in the district experiencing a "financial hardship." The transfer only occurs if both the receiving and sending districts agree; the receiving district is only "strongly encouraged" to honor the transfer student's school selection. Districts only provide information about cross-district open enrollment upon request.¹⁶⁹ Students seeking to transfer schools, but who do not qualify under the code's exceptions, can be charged tuition.¹⁷⁰

All school districts are required to participate in statewide within-district open enrollment.¹⁷¹ However, school districts are not required to publicly post their within-district open enrollment option on their websites. In fact, districts are only required to provide their within-district transfer policies to non-residents upon request.¹⁷² Districts must prioritize transfer applications for students who are children of the full-time teaching staff. Within-district transfer students cannot be charged tuition.¹⁷³ Parents, however, who falsify their address for unsanctioned student transfers can be fined up to \$500.¹⁷⁴

The Evergreen State does not require districts to post their available capacity. Nor is the SEA required to publicly report important open enrollment data, such as the reasons transfer applicants were rejected.

Washington policymakers can improve their open enrollment options in three main ways:

- Require districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require the SEA to collect and publish important open enrollment data, such as the number of transfer applications and the reasons applications were rejected.

¹⁶⁹ RCW 28A.225.225, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.225> (accessed 27 June 2023).

¹⁷⁰ RCW 28A.225.220, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.220> (accessed 27 June 2023).

¹⁷¹ RCW 28A.225.270, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.270> (accessed 27 June 2023).

¹⁷² RCW 28A.225.290, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.290>; RCW 28A.225.300, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.300> (accessed 27 June 2023).

¹⁷³ RCW 28A.225.210, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.210> (accessed 27 June 2023).

¹⁷⁴ DeRoche, Korman, and Hinds, "When Good Parents Go to Jail."

- Require districts to post their available capacity by grade level and their policies and procedures online.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

Wisconsin meets the majority of Reason's best practices policy goals.

All districts are required to participate in Wisconsin's statewide cross-district open enrollment option so long as they have available capacity. Districts must post about their cross-district open enrollment option on their websites. When a school or program is oversubscribed, students are selected through a randomized lottery. However, already-enrolled non-resident students and their siblings will receive preference in student selection. Unselected students are placed on a waiting list in case any selected students choose to not enroll in the program. The Badger State also has a voluntary within-district open enrollment option. The school board can give preference to transfer applicants who are inside the same school district.¹⁷⁵

Although districts are not required to post their available capacity on their websites, the SEA provides thorough reports about open enrollment, including the number of transfer students and the reason transfer applications were rejected.¹⁷⁶ Also, Wisconsin does not permit districts to charge tuition to transfer students. In fact, Wisconsin's student funding mechanism is cutting edge, allowing all education dollars to follow each transfer student regardless of where they go to school.¹⁷⁷

Wisconsin policymakers can improve their open enrollment options in three main ways:

- Require all districts to participate in within-district open enrollment.
- Require districts to post their available capacity and open enrollment policies and procedures on their websites.
- Implement random audits of school districts' available capacity.

¹⁷⁵ Wisconsin State Legislature, 118.51, <https://docs.legis.wisconsin.gov/statutes/statutes/118/51> (accessed 27 June 2023); Wisconsin State Legislature, 118.57, <https://docs.legis.wisconsin.gov/statutes/statutes/118/57> (accessed 27 June 2023); Wisconsin Department of Instruction, Public School Open Enrollment, www.dpi.wi.gov/open-enrollment (accessed 27 June 2023); Flanders.

¹⁷⁶ Wisconsin Department of Public Instruction, Open Enrollment Data and Reports, www.dpi.wi.gov/open-enrollment/data (accessed 27 June 2023); Aaron Garth Smith, "Improving K-12 open enrollment transparency is low-hanging fruit for state policymakers," Reason Foundation, Commentary, November 15, 2022, <https://reason.org/commentary/improving-k-12-open-enrollment-transparency-is-low-hanging-fruit-for-state-policymakers/> (accessed 26 June, 2023).

¹⁷⁷ Smith, Barnard, Campbell, "Public education funding without boundaries: How to get K-12 dollars to follow open enrollment students."

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	✓
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	✓
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	✓

Wyoming doesn't meet any of Reason's best practices policy goals.

Wyoming permits voluntary cross-district open enrollment if the school district's board of trustees decides that attendance in the receiving district is more convenient or desirable because of services available in the receiving district. However, the receiving district does not have to admit transfer students if their admission would cause overcrowding.¹⁷⁸ The state code also permits voluntary within-district open enrollment, but participation is at the discretion of each district.¹⁷⁹

The Equality State does not require districts to post their available capacity, although they are encouraged to post any pertinent student-level data on their website. The SEA does not collect and publish important open enrollment data. Districts can charge transfer students tuition.

Wyoming policymakers can improve their open enrollment options in three main ways:

- Require districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require districts to post their policies and procedures for within-district open enrollment online.
- Require districts to post their available capacity online.

Best Practice	Current Policy
Statewide Cross-District Open Enrollment	X
Statewide Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School District Reporting	X
States Should Ensure That Children Have Free Access to All Public Schools	X

¹⁷⁸ Wyoming Statutes Title 21. Education § 21-4-502. Attendance in another district when convenient or desirable; admission of pupils resident in other districts; attendance for ADM computations specified, <https://codes.findlaw.com/wy/title-21-education/wy-st-sect-21-4-502.html> (accessed 27 June 2023).

¹⁷⁹ Wyoming Statutes Title 21. Education § 21-4-301. Schools to be free and accessible to all children; minimum school year, <https://codes.findlaw.com/wy/title-21-education/wy-st-sect-21-4-301.html#:~:text=Except%20as%20otherwise%20provided%20by,an%20approved%20request%20under%20W.S> (accessed 27 June 2023).

PART 6

CONCLUSION

An impressive six states significantly improved their open enrollment policies in 2023, bringing the total number of states with statewide cross-district open enrollment laws to 16, an increase of almost 77%.¹⁸⁰ These victories are likely the most open enrollment reforms to occur in one year. Idaho adopted a robust transparency provision for school district reporting, and Montana and North Dakota stopped school districts from charging transfer students the cost of public school tuition. However, no state fully adopted strong and transparent SEA reporting provisions. This remains the most common weakness in open enrollment policies nationwide as only three states—Oklahoma, Kansas, and Wisconsin—require their SEAs to publish annual reports on open enrollment that include the number of transfer students, the number of rejected applicants, and why their applications were rejected.¹⁸¹ These data help state policymakers refine their open enrollment policies and ensure that school districts' open enrollment practices are transparent and fair.

Another area in which most schools fail is discrimination against students with disabilities. While not listed as a specific metric in Reason's best practices for open enrollment, states

¹⁸⁰ 16 states have strong open enrollment laws, namely those with statewide cross-district open enrollment policies in place. Combined with the 13 states with statewide within-district open enrollment laws, 21 states have statewide open enrollment laws.

¹⁸¹ Jude Schwalbach, "Better transparency can improve public school open enrollment in most states," Reason Foundation, Commentary, September 6, 2022, www.reason.org/commentary/better-transparency-can-improve-public-school-open-enrollment-in-most-states/ (accessed 25 May, 2023); Smith, "Improving K-12 open enrollment transparency is low-hanging fruit for state policymakers."

that succeed in meeting Reason’s metrics are more likely to open enroll students freely. Unfortunately, even states with excellent open enrollment policies, such as Arizona, let school districts discriminate against transfer students with disabilities, citing enrollment caps due to insufficient staffing.¹⁸² This means that public school districts are held to lower admittance standards than charter schools, which are required to use a blind enrollment process.¹⁸³ Karla Phillips-Krivickas of Think Inclusion points out that the families of students with disabilities should not have to shoulder the burden of staffing problems in special education, especially when school districts would be required by law to accommodate transfer applicants with disabilities if their families moved inside the school district.¹⁸⁴ Arizona isn’t the only state with strong open enrollment laws to let school districts discriminate against students with disabilities. More than 70,000 students participate in Wisconsin’s robust cross-district open enrollment program. The Wisconsin Department of Public Instruction’s annual report showed that there were approximately 42,000 transfer applicants during the 2021-2022 school year, nearly 6,000 of whom had disabilities.¹⁸⁵ While school districts only rejected 14% of students without disabilities, they rejected 40% of applicants with disabilities, often citing “lack of special education space”, according to Wisconsin Watch’s Mario Koran.¹⁸⁶ This means that transfer applicants with disabilities were more likely to be rejected than their peers without disabilities. This could be because some school districts are unwilling to accommodate transfer students and discriminate against their applications. These examples illustrate how even states with strong open enrollment laws can still make significant improvements.

¹⁸² Karla Phillips-Krivickas, “Commentary: Prioritize students, not programs when legislating open enrollment,” *Reimagined*, May 4, 2021, <https://www.reimaginedonline.org/2021/05/commentary-prioritize-students-not-programs-when-legislating-open-enrollment-2/> (accessed 5 June 2023).

¹⁸³ Tatiana Worl and Kristi Wagers, “No open Enrollment for special needs kids,” *Arizona Capitol Times*, October 31, 2021, <https://azcapitoltimes.com/news/2021/10/31/no-open-enrolment-for-special-needs-kids/> (accessed 5 June 2023).

¹⁸⁴ Phillips-Krivickas, “Commentary: Prioritize students, not programs when legislating open enrollment.”

¹⁸⁵ “Open enrollment approvals and denials-special education and not special education-including alternative applications,” Wisconsin Department of Public Instruction, November 2022, <https://dpi.wi.gov/sites/default/files/imce/open-enrollment/pdf/19-20-to-21-22-multi-year-sped-participation.pdf> (accessed 5 June 2023).

¹⁸⁶ Mario Koran, “Wisconsin students with disabilities often denied public school choices,” *Wisconsin Watch*, May 31, 2023, <https://wisconsinwatch.org/2023/05/wisconsin-public-schools-students-disabilities-options/> (accessed 5 June 2023).

Open enrollment is a win-win-win for students, families, and school districts. As policymakers reevaluate their states' open enrollment policies, Reason's open enrollment toolkit can help guide them to crafting policies that benefit students and make the education marketplace robust.

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