

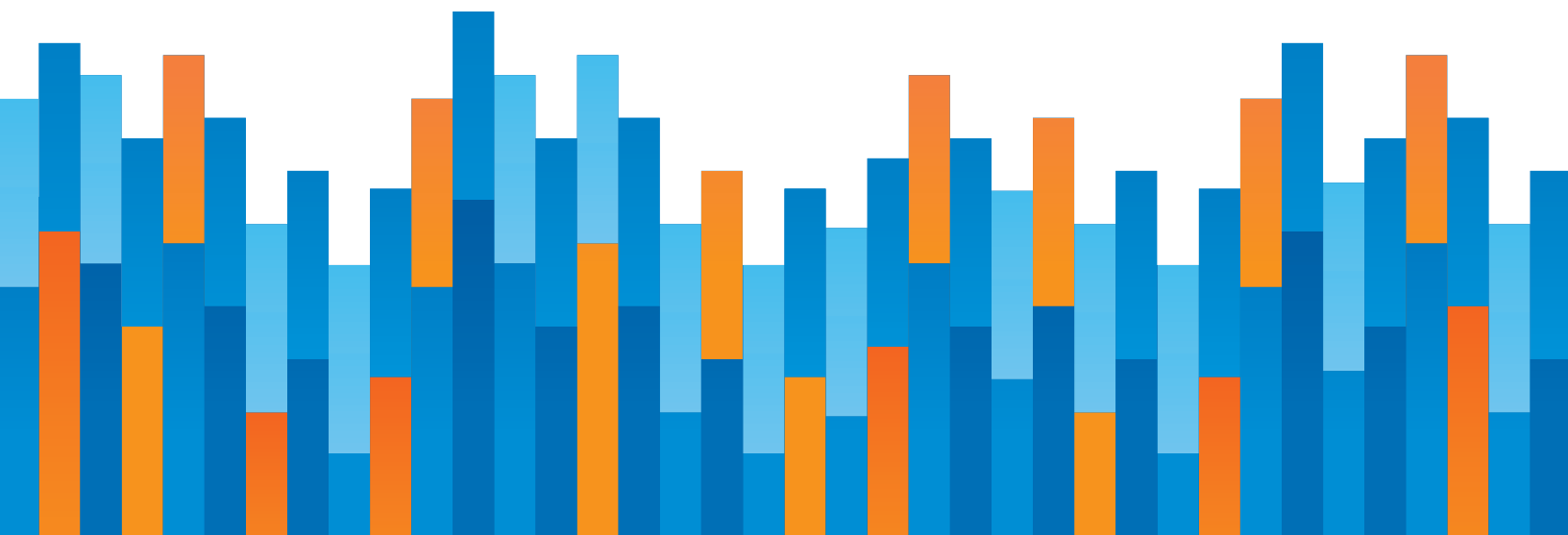


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PUBLIC SCHOOLS WITHOUT BOUNDARIES: A 50-STATE RANKING OF K-12 OPEN ENROLLMENT

by Jude Schwalbach

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PART 1

INTRODUCTION

In the United States, school assignments are determined by families' residences, casting unseen dividing lines in communities throughout the country. These government-imposed district boundaries or catchment zones divide communities, sorting children—often by wealth or ethnicity—into schools based on where they live. Many are unaware of these divisions until they realize that access to certain public schools often comes down to where you live.

For example, Kelsey Williams-Bolar—a single mom completing her degree and working as a teacher's aide—realized that she could not continue to enroll her daughters in their assigned public school in Akron, Ohio. Not only were her daughters being bullied at school, but Akron public schools were low-performing and in poor condition.¹

She decided to have her children live part time with her father in the suburbs. While there she enrolled her children in the Copley-Fairlawn School District where her father's home was zoned. However, Williams-Bolar and her father were charged with felonies after a private investigator, hired by the Copley-Fairlawn School District, discovered that Williams-Bolar did not live inside the school district. Williams-Bolar received two concurrent five-year sentences (suspended to 10 days) for using her father's address to enroll her children

¹ Annie Lowrey, "Her Only Crime Was Helping Her Kids," *The Atlantic*, September 13, 2019, <https://www.theatlantic.com/ideas/archive/2019/09/her-only-crime-was-helping-her-kid/597979/>.

in a better school district.² Nineteen cases, similar to Williams-Bolar's, have been reported in eight states since 1996.³

Williams-Bolar's story illustrates how school district boundaries often serve as barriers to better education options for many families. Residential assignment can have long-term ramifications for students, even after they graduate from high school. For instance, Advanced Placement (AP) courses are a valuable tool for high school students, allowing them to receive college credit while still in high school. As of 2021, however, *US News* reported that nearly a quarter of high schools—mostly in rural areas—did not offer AP courses.⁴ This means that students assigned to rural public high schools could end up paying thousands of dollars more for college.



Residential assignment can have long-term ramifications for students, even after they graduate from high school.



In fact, the *Missouri Business Alert* reported in 2020 that the difference in AP courses offered at two Missouri high schools, located less than 20 minutes from each other, could cost their respective graduates thousands of dollars. Students assigned to the rural Southern Boone High School could earn a maximum of five college credits, whereas students assigned to its more urban counterpart, Hickman High School, could earn a maximum of 18 college credits. This difference in available AP courses means that graduates from Southern Boone could end up paying nearly \$4,000 more in college tuition at the University of Missouri than their peers from Hickman High.⁵

² Andrea Canning and Leezel Tanglao, "Ohio Mom Kelley Williams-Bolar Jailed for Sending Kids to Better School District," ABC News, January 25, 2011, <https://abcnews.go.com/US/ohio-mom-jailed-sending-kids-school-district/story?id=12763654>.

³ Huriya Jabbar and Leah Faw, "Poor Choices: The Sociopolitical Context of 'Grand Theft Education,'" *Urban Education*, 2020, https://www.academia.edu/32429211/Poor_Choices_The_Sociopolitical_Context_of_Grand_Theft_Education.

⁴ Cole Claybourn, "What to Do If Your School Doesn't Offer AP Classes," *US News*, July 22, 2022, <https://www.usnews.com/education/best-high-schools/articles/2022-07-28/what-to-do-if-your-high-school-doesnt-offer-ap-courses>.

⁵ Matthew Unthank, "'AP' disparity: Some high school students miss chance to amass college credit, save money," *Missouri Business Alert*, June 22, 2020, www.missouribusinessalert.com/news/business/ap-disparity-some-high-school-students-miss-chance-to-amass-college-credit-save-money/article_04367f61-1831-5f96-af8c-080c6aaf5f48.html (accessed 3 August, 2022).

These examples show that residential assignment locks students into their assigned schools even if they aren't a good fit. Students need flexible education options that may not be available in their assigned district, such as specialized programming, school culture or learning philosophy, or better academic opportunities.⁶



K-12 open enrollment provides a solution for families assigned to public schools that aren't a good fit for their children.



K-12 open enrollment provides a solution for families assigned to public schools that aren't a good fit for their children. This policy would allow children to enroll in any public school so long as it has open seats. While 43 states have some sort of open enrollment, only 11 states have mandatory open enrollment laws.

This analysis is a roadmap for developing robust open enrollment. It explores the benefits of open enrollment, outlines the core tenets and best practices for open enrollment, examines which states have the best open enrollment policies on the books, and provides an open enrollment snapshot of all 50 states. These state snapshots show policymakers what each state is doing well, where each state falls short, and the necessary steps to establish robust open enrollment.

⁶ Aaron Garth Smith, "Open Enrollment Provides Substantial Benefits to Students and Families," January 28, 2020, www.reason.org/commentary/open-enrollment-provides-substantial-benefits-to-students-and-families/ (accessed 3 August, 2022).

PART 2

HOW DOES OPEN ENROLLMENT HELP STUDENTS AND IMPROVE SCHOOL QUALITY?

2.1 FOSTERS COMPETITION FOR EXCELLENCE

Open enrollment breaks down the barriers that prevent families from choosing better public schools. For example, students using Texas' transfer policy were more likely to transfer to school districts ranked as "A" under the state's district report card accountability system and less likely to transfer to school districts with lower rankings, such as "C," "D," or "F."⁷ Similarly, in 2016 and 2021, California's Legislative Analyst's Office (LAO) found that nearly all students participating in the state's District of Choice program transferred to districts with higher test scores.⁸ More than 90% of students using Florida's robust cross-

⁷ Aaron Smith, Emily Sass, Christian Barnard, and Jordan Campbell, Texas Student Transfer Dashboard, reason.shinyapps.io/texas_student_transfer_dashboard/ (accessed 3 August 2022).

⁸ "Evaluation of the District of Choice Program." California Legislature, Legislative Analyst's Office. January 27, 2016, www.lao.ca.gov/Publications/Report/3331 (accessed 3 August 2022); "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 3 August 2022).

district open enrollment option transferred to schools rated as “A” or “B.”⁹ At the same time, a 2017 report on Ohio’s open enrollment program found achievement benefits and increased on-time graduation rates for transfer students who consistently used open enrollment, especially for those in high-poverty urban areas.¹⁰ These findings indicate that families use open enrollment to access better public education options in areas where they can’t necessarily afford to live.



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While better academic opportunities are an important factor for transfer students, families might consider a variety of reasons, such as school culture or programming, commute times, bullying, or safety.¹¹ California’s Legislative Analyst’s Office 2016 report also found that districts participating in the District of Choice program attracted students who were bullied at or did not fit in at their assigned school or who wanted a shorter school commute. Both the 2016 and 2021 California LAO reports indicated that many students chose to transfer schools because their assigned school lacked educational opportunities such as Advanced Placement or International Baccalaureate courses, a particular school instructional model, or courses that emphasized career preparation for students interested in particular fields.¹²

When parents have choices, they seek to place their children in the schools that provide what they want most, whether that’s more rigorous academics, a more nurturing social environment, or more diverse class offerings. In turn, these pressures for excellence encourage schools to provide what parents want. Instead of being assured of a certain

⁹ Vittorio Nastasi, “Florida’s Open Enrollment Policy Can Serve As a School Choice Model,” Reason Foundation, Commentary, January 29, 2020, www.reason.org/commentary/floridas-open-enrollment-policy-can-serve-as-a-school-choice-model/ (accessed 3 August 2022).

¹⁰ Deven Carlson and Stéphane Lavertu, “Interdistrict Open Enrollment in Ohio: Participation and Student Outcomes,” Fordham Institute, June 2017, www.fordhaminstitute.org/ohio/research/interdistrict-open-enrollment-ohio-participation-and-student-outcomes (accessed 3 August, 2022).

¹¹ Smith, “Open Enrollment Provides Substantial Benefits to Students and Families.”

¹² “Evaluation of the District of Choice Program,” Legislative Analyst’s Office; “Follow-Up Evaluation of the District of Choice Program,” Legislative Analyst’s Office.

number of students based on existing housing in a district, districts should compete for students, forcing them to serve families better. This works in the real world. For example, some California school districts that experienced student attrition under the District of Choice program later improved their educational offerings. In some cases, districts that made improvements saw fewer students transferring out of their assigned districts. This illustrates that school districts can be responsive to market forces and can improve when incentivized.¹³

2.2 ADDRESSES PROPERTY WEALTH AND FAIRNESS

The current practice of residentially-based school assignment fundamentally links schooling to housing and property wealth.

The current practice of residentially-based school assignment fundamentally links schooling to housing and property wealth. “Families are faced with the reality that attending a high-performing public school often requires paying more for housing,” the Senate Joint Economic Committee reported in 2019.¹⁴ In fact, the median price of homes in zip codes associated with highly rated schools is four times as much as the median price of homes associated with poorly rated schools.¹⁵ Since school boundaries can reflect historic socio-economic or racial divisions, children from low-income families or who suffer from historic inequalities are less likely to have access to high-quality education options than their more affluent peers.¹⁶ Where you can afford to live directly corresponds to the quality of a family’s assigned school. In fact, research in Colorado finds that “Families living in high-income zip codes are seven times as likely to have excellent access to a top high

¹³ “Evaluation of the District of Choice Program.” Legislative Analyst’s Office.

¹⁴ Vanessa Calder-Brown, “Zoned Out: How School and Residential Zoning Limit Educational Opportunity,” SCP report no. 6-19 | November 2019, www.jec.senate.gov/public/_cache/files/f4880936-8db9-4b77-a632-86e1728f33f0/jec-report-zoned-out.pdf (accessed 3 August, 2022).

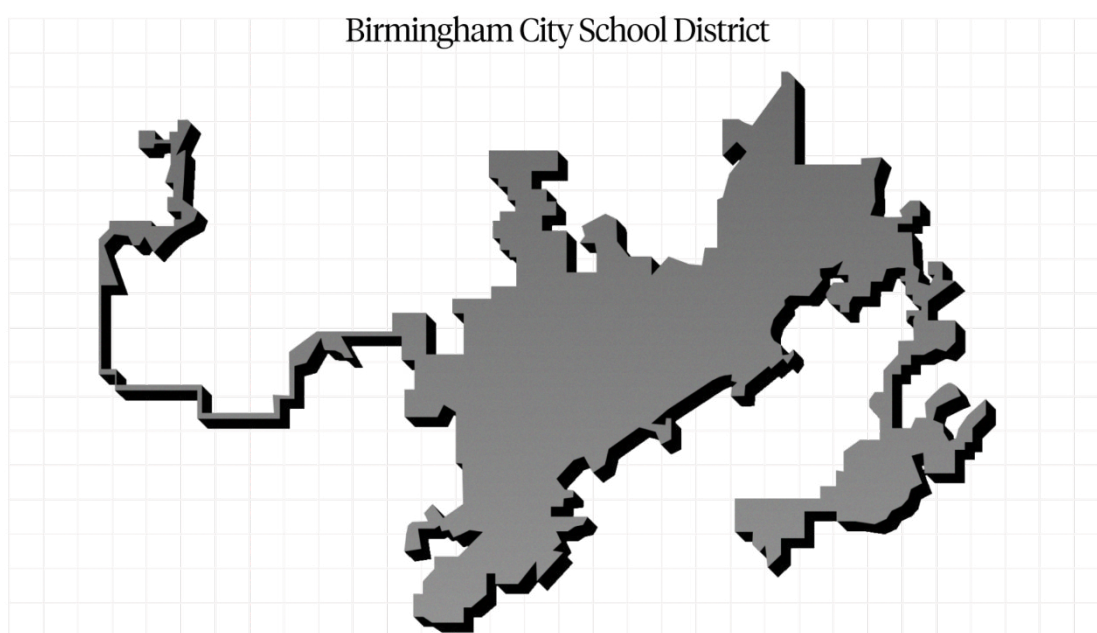
¹⁵ Ibid.

¹⁶ Dylan Lukes and Christopher Cleveland, “The Lingering Legacy of Redlining on School Funding, Diversity, and Performance,” Brown University, Annenberg Institute, EdWorking Papers, 11/2021, www.edworkingpapers.com/ai21-363 (accessed 3 August, 2022).

school than families living in low-income zip codes.”¹⁷ In sum, geographic school assignment means that many district-run public schools often act more like private clubs where membership fees are included in the cost of housing.

All too often, school district and attendance zone boundaries have been gerrymandered to exclude families deemed undesirable.¹⁸ This means that students who live just a few blocks from one school are sometimes assigned to other schools that are farther away.¹⁹ For example, Alabama’s Birmingham City School District’s serpentine shape stops students from attending nearby schools.²⁰

FIGURE 1: BIRMINGHAM CITY SCHOOL DISTRICT



¹⁷ Luke Ragland, “High Quality Schools, Heat Map,” Ready Colorado, Fall 2020, www.readycolorado.org/wp-content/uploads/2021/02/ReadyCO-Report-020821_interactive_fixed-1.pdf (accessed 3 August 2022).

¹⁸ Lindsey Burke and Jude Schwalbach, “Housing Redlining and Its Lingering Effects on Education Opportunity,” Heritage Foundation Backgrounder No. 3594, March 11, 2021, www.heritage.org/education/report/housing-redlining-and-its-lingering-effects-education-opportunity (accessed 3 August, 2022).

¹⁹ Tim DeRoche, “Public-School Attendance Zones Violate a Civil Rights Law,” *Education Next*, May 14, 2020, www.educationnext.org/public-school-attendance-zones-violate-civil-rights-law-equal-educational-opportunities-act-a-fine-line/ (accessed 3 August, 2022).

²⁰ Birmingham City Schools, 2019-2020 Zone and Feeder Patterns, July 27, 2021, www.bhamcityschools.org/zoning (accessed 3 August, 2022).

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Many existing school boundaries stem from now-illegal housing redlining practices in the early 20th century.
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Many existing school boundaries stem from now-illegal housing redlining practices in the early 20th century. In the 1930s access to federally backed home loans was determined by a variety of factors including race. In 1933, the Home Owners' Loan Corporation (HOLC) “purchased existing mortgages that were subject to imminent foreclosure and then issued new [amortized] mortgages with repayment schedules of up to fifteen years.”²¹ It developed maps that color coded city neighborhoods, with those designated as red considered hazardous for lending.²² Unfortunately, these “redlined” neighborhoods were often the homes of minorities.²³ Experts are divided about the degree to which the HOLC's maps affected African Americans' ability to access home loans, especially since the HOLC did provide mortgages to them. The HOLC's lending practices, however, often codified “existing boundaries and restrictions that were created by developers and homeowners associations,” reinforcing racial segregation.²⁴

Housing redlining was further entrenched by the 1934 Federal Housing Administration (FHA), which distributed an *Underwriting Manual* to all its appraisers establishing uniform standards for them to use in their work. Not only did the *Underwriting Manual* include racial standards but it also explicitly linked housing and schooling, stating:

If the children of people living in such an area are compelled to attend school where the majority or a considerable number of the pupils represent a far lower level of society or

²¹ Richard Rothstein, *The Color of the Law*, New York: Liveright Publishing Corporation, 2017, 63-64.

²² Burke and Schwalbach, “Housing Redlining and Its Lingering Effects on Education Opportunity.”

²³ Mapping Inequality, “Redlining in New Deal America,” ds.richmond.edu/panorama/redlining/#loc=5/39.1/-94.58 (accessed 3 August 2022).

²⁴ Nathan Connolly, in Brad Broberg, “Learning from Our Past: The History of the Fair Housing Project,” National Association of Realtors, May 15, 2018, www.nar.realtor/on-common-ground/learning-from-our-past-the-history-of-the-fair-housing-act (accessed 29 August, 2022); Burke and Schwalbach, “Housing Redlining and Its Lingering Effects on Education Opportunity.”

*an incompatible racial element, the neighborhood under consideration will prove far less stable and desirable than if this condition did not exist.*²⁵

Since housing and schooling were tied in the public education system, housing redlining exacerbated segregation throughout the United States. Although *Brown v Board of Education* ended formalized racial segregation in schools in 1954, housing redlining still persisted, allowing communities to limit school integration. Not until Congress passed a series of legislative reforms—the 1968 Fair Housing Act, the 1974 Equal Credit Opportunity, and the 1977 Community Reinvestment Act—was housing redlining made illegal. But the damage to children and neighborhoods had already been done.

Despite these reforms, the lingering effects of housing redlining continue to mar public education. All too often, modern school district or catchment boundaries mirror the zones imposed by housing redlining. Although demographics in these neighborhoods may have changed in time, these boundaries act as educational barriers. In his book *A Fine Line*, education researcher Tim DeRoche explains how housing redlining reflected in school zones still affects Chicago families today. Lincoln Elementary and Manierre Elementary are five blocks—1.3 miles—from each other off Larrabee Avenue. The former is a high performing school, while the latter receives the lowest possible ranking from the district.²⁶ Their common attendance zone boundary falls along North Avenue, the same place where government officials redlined the neighborhoods more than a century ago.²⁷ This anachronistic boundary assigns children to their school based on which side of the street they live. Families across the street from each other are assigned to significantly different schools all because of where they live.

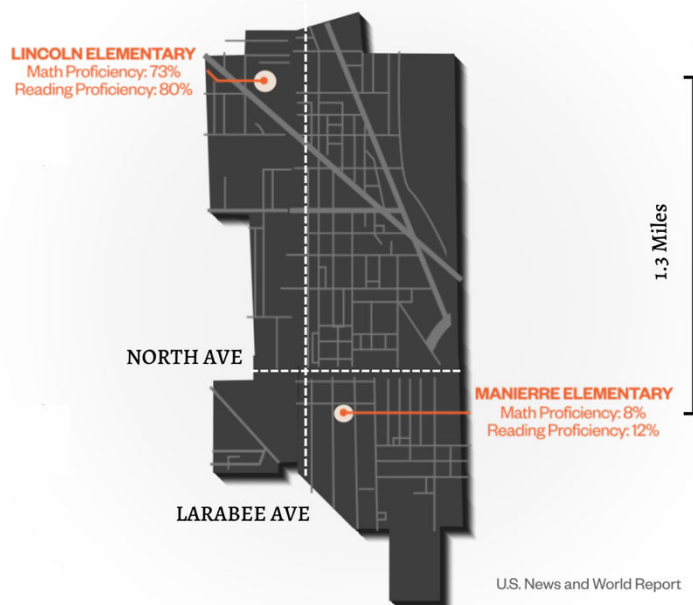
²⁵ Federal Housing Administration, Underwriting Manual: Underwriting and Valuation Procedure Under Title II of the National Housing Act, 1938, § 951, www.huduser.gov/portal/sites/default/files/pdf/Federal-Housing-Administration-Underwriting-Manual.pdf (accessed 3 August 2022).

²⁶ Tim DeRoche, *A Fine Line*, Redtail Press: Los Angeles, 2020, 31-36.

²⁷ Mapping Inequality, “Redlining in New Deal America.”

FIGURE 2: MAP OF REDLINED CHICAGO SCHOOLS

Map of Redlined Chicago Schools



Unfortunately, Chicago's boundaries are not an anomaly—the HOLC created maps that redlined innumerable neighborhoods in 239 metropolitan areas across the contiguous United States. In fact, a 2021 Annenberg report by Dylan Lukes and Christopher Cleveland found that schools in previously redlined neighborhoods had less diverse student populations and worse average test scores relative to schools ranked as superior by the HOLC.²⁸ The lingering effects of housing redlining still affect public school children today, drastically limiting access to supposedly free public schools.

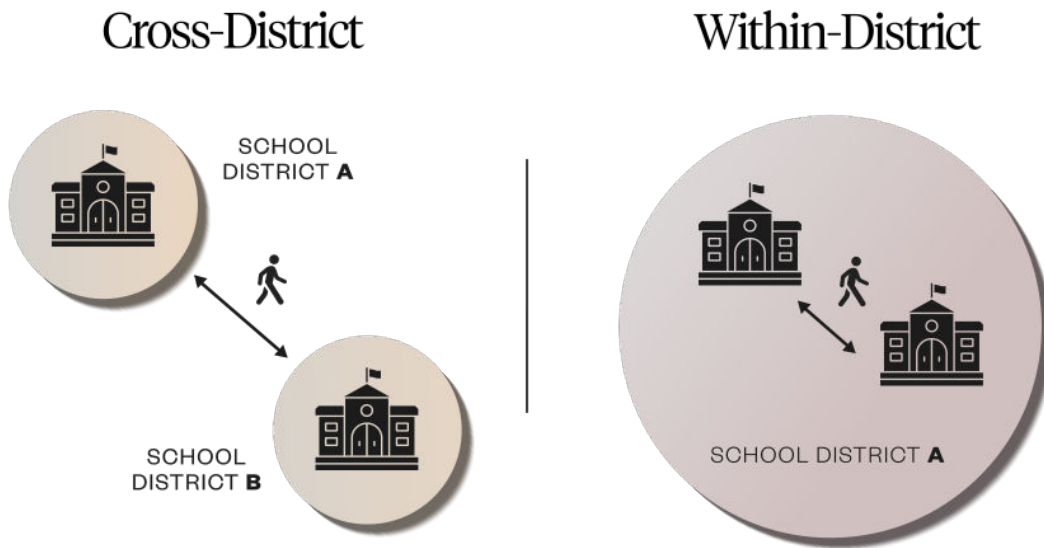
Policymakers could begin to mend these fraught divisions by implementing robust open enrollment programs.²⁹ But most importantly, open enrollment weakens the tie between housing and schooling, allowing families to enroll their children in any public school with open seats, regardless of where they live. Through open enrollment, all children can have access to education options, such as specialized programming, that meet their academic needs, or are a good cultural or learning fit. **Cross-district open enrollment** lets families enroll their children in any school outside their geographically assigned school district.

²⁸ Lukes and Cleveland, "The Lingering Legacy of Redlining on School Funding, Diversity, and Performance."

²⁹ Jude Schwalbach, "States can help public school students succeed by expanding open enrollment policies," Reason Foundation, Commentary, November 3, 2021, www.reason.org/commentary/states-can-help-public-school-students-succeed-by-expanding-open-enrollment-policies/ (accessed 3 August, 2022).

Within-district open enrollment, on the other hand, lets families enroll in any school inside their assigned school district.

FIGURE 3: INTRA-DISTRICT SCHOOLS VS INTER-DISTRICT SCHOOLS



PART 3

BEST PRACTICES IN OPEN ENROLLMENT LAWS

Students can only access these benefits if their states have strong open enrollment policies. Too often, state policies are overly deferential to districts, substantially weakening open enrollment. While various education resources indicate that 43 states explicitly have open enrollment, most of these policies are null or ineffective since they are overly deferential to school districts.³⁰ Given the opportunity, many school districts will game the system to exclude students who don't reside in their boundaries. For instance, weak open enrollment laws can make program participation voluntary, allowing districts to "opt out." In other cases, districts can disincentivize transfers by charging non-resident students the full cost of tuition or exorbitant fees. These policies create mammoth barriers for students, especially disadvantaged ones whose families cannot afford tuition or transportation costs. Consequently, robust open enrollment laws must include provisions that hold districts accountable to families.

Accountability depends on transparency, with district and school policies and enrollments visible to the public at large. Reason's five best practices implement the hallmarks of

³⁰ Ben Erwin, Bryan Kelley, Gerardo Silva-Padron, "50-State Comparison: Open Enrollment Policies," Education Commission of the States, March 8, 2022, <https://www.ecs.org/50-state-comparison-open-enrollment-policies/> (accessed 3 August 2022).

student choice through district participation, accountability to families through transparency, and free and fair public schooling that characterize a viable open enrollment system.

#1 Mandatory Cross-District Open Enrollment: All school districts with open seats must participate in cross-district open enrollment so children have access to any public school with open seats regardless of where they live. Without mandatory participation requirements, some districts refuse to participate in cross-district open enrollment leaving children in neighboring school districts with fewer or no alternatives. For instance, many wealthy and high-performing suburban school districts surrounding Ohio's eight major cities refuse to participate in the state's voluntary cross-district open enrollment program. This policy effectively keeps inner-city and nearby rural children from transferring to better schools in the suburbs.³¹ All too often, voluntary open enrollment means that the best schools with open seats can continue to exclude children from outside their boundaries, fundamentally undermining the program's purpose. Cross-district open enrollment policies should only allow districts to reject transfer applicants for limited reasons, such as insufficient capacity.

#2 Mandatory Within-District Open Enrollment: All school districts with open seats must also participate in mandatory within-district open enrollment, allowing students living inside the district boundaries to transfer to any school with excess seats. Within-district open enrollment lets students enroll in schools near their homes, but outside their assigned catchment area. Mandatory participation requirements ensure that students aren't excluded from nearby public schools with available capacity that are a better fit. For instance, students assigned to the poor-performing Lowell Elementary in Seattle cannot transfer to the neighboring and elite John Hay Elementary even though both schools are in the same school district.³² Research in Colorado and Florida shows that within-district transfers are a popular option for students. In fact, approximately 95,600 students in Colorado's 12 largest school districts used the within-district open enrollment during the 2016-2017 school year, nearly three times the number of students using the state's cross-district option.³³ Similarly,

³¹ 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 3 August 2022).

³² Jason Bedrick and Tim DeRoche, "Ep. 204: Big Ideas—'A Fine Line' with Tim DeRoche," Big Ideas-EdChoice Chats, EdChoice, September 10, 2020, <https://www.edchoice.org/podcasts/ep-204-big-ideas-a-fine-line-with-tim-deroche/> (accessed 2 September 2022).

³³ Ragland and Hulse, "Open Doors, Open Districts."

nearly 268,000 Florida students—48 times as many cross-district transfers—used the state’s within-district open-enrollment during the 2018-2019 school year.³⁴

#3 Transparent Reporting by the State Education Agency: Details of implementation are critical to ensuring that open enrollment laws achieve their objectives. Transparency provisions add muscle and sinew to the bare bones of cross-district and within-district open enrollment policies, making the public education system truly public. Transparent public reporting of accurate data is crucial. For instance, in some states, districts report important data on open enrollment to the State Education Agency (SEA), such as the number of participating students or the reasons why transfer applications were rejected. However, the SEA is not required to publicly disseminate this information. The policy falls short since the public is not made aware of the data.

Mandatory open enrollment policies require all districts to participate in the program. However, they don’t hold districts accountable to ensure that they don’t reject transfer applications for superficial reasons. SEAs’ oversight of cross-district and within-district transfers is often minimal as most states don’t require districts to provide any evidence of capacity constraints or require districts to publicly report why transfer applications were rejected. SEAs’ guidance does not often exceed the minimum standards established by federal civil rights laws.

Accordingly, SEAs should annually collect and make public key open enrollment data, such as district transfer policies, the number of transfer applications that were accepted or rejected, and the reasons why applications were rejected. This would help ensure that school districts only reject transfer students for valid reasons, such as insufficient capacity. Without transparency, districts could reject all transfer applicants for supercilious reasons or discriminate against students deemed undesirable. In some cases, districts don’t always make decisions based on what’s best for kids when there is no state accountability.

#4 Transparent and Public Posting of Vacancies: For families to be able to effectively choose among public schools for their children, they need to know which districts and schools have available seats. Districts should be required to publish their open enrollment options on their websites, including any pertinent application deadlines or procedures. These transparency requirements ensure that families know about their open enrollment options. Clear and readily available capacity reports by all schools help families to see their

³⁴ Nastasi, “Florida’s Open Enrollment Policy Can Serve As a School Choice Model.”

options, help schools to fill their capacity, and prevent some reluctant districts from rejecting transfer student applications when seats are available.³⁵

For example, some states, such as Delaware, provide families with a virtual tool to track which schools in each district have available seats and which are at or nearing capacity.³⁶ In the months preceding the new academic year, public school districts should be required to publicly report seating capacity by school and grade level. When demand exceeds capacity, districts should implement a randomized lottery to determine which transfer students can enroll.

Accountability Through Publishing Capacity

Accurate capacity reporting can be a challenge for state policymakers. Unfortunately, some school districts can game capacity reporting by listing their schools as always at full capacity even when seats are available. For instance, Tim DeRoche argued in his book, *A Fine Line*, that major school districts, such as LAUSD, intentionally ignore state reporting requirements through dubious interpretations of the state code. Policymakers, however, can take steps to stop districts from gaming the system. For example, Florida policymakers in 2022 proposed various reporting requirements, such as making school districts update their capacity every 12 weeks, or requiring school districts to maintain a waiting list, and accepting transfer students throughout the year as seats became available. Policymakers can incorporate other measures to hold school districts accountable, such as randomized or regular audits of school districts' capacity.

#5 Free Access to All Public Schools: In some cases, state codes allow schools to charge the full cost of tuition or exorbitant fees to transfer students.³⁷ This can be a mammoth barrier for students whose families cannot afford the cost. For instance, in 2019 Rye Brook School District in New York announced that it would annually charge non-resident K-6

³⁵ Reback, "Demand (and supply) in an inter-district public school choice program."

³⁶ Delaware Department of Education, "Choice Applications," www.schoolchoicede.org/ChoiceApplications.aspx (accessed 3 August 2022).

³⁷ Since the status quo of education funding is institution-centered, families should not have to pay out-of-pocket tuition for their children to access public education options. However, if states were to make their education funding systems student-centered, whereby families directly control their children's education funds (i.e. an education savings account), it would be appropriate for institutions to set tuition levels.

students \$19,000 in tuition and non-resident 7-12 students \$21,500 in tuition.³⁸ This creates perverse incentives for schools to “sell” their seats. Currently, the education code in half of states permits or does not explicitly prevent schools from charging tuition to families who are not residentially assigned to them. No district should be able to charge tuition to families for public K-12 education. Instead, state policymakers should put policies in place to make funding follow the child seamlessly across district boundaries.³⁹ In addition to not allowing districts to charge tuition to transfer students, policymakers should consider reforms that make education funds more student-centered, such as those in Wisconsin, which is discussed under “Model States.”⁴⁰

3.1

REASON'S FIVE BEST PRACTICES

Reason Foundation ranks each state in the five best practices of open enrollment as defined in Table 1.

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

<p>#1 Mandatory Cross-District Open Enrollment <i>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. Policies, including all applicable deadlines and application procedures, must be posted online on districts' websites.</i></p>
<p>#2 Mandatory Within-District Open Enrollment <i>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. Policies, including all applicable deadlines and application procedures, must be posted online on districts' websites.</i></p>
<p>#3 Transparent Reporting by the State Education Agency (SEA) <i>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.</i></p>

³⁸ Grace Chen, Tuition for Public Schools? Some Districts are Saying Yes, Public School Review, November 18, 2019, www.publicschoolreview.com/blog/tuition-for-public-schools-some-districts-are-saying-yes (accessed 3 August 2022).

³⁹ Smith, “Open Enrollment Provides Substantial Benefits to Students and Families.”

⁴⁰ Aaron Garth Smith, “Wisconsin’s open enrollment policy success is a model for states looking to increase educational opportunities,” Reason Foundation, Commentary, July 25, 2022, <https://reason.org/commentary/wisconsin-leads-the-nation-in-open-enrollment-policy/> (accessed 5 August 2022).

#4 Transparent School Capacity Reporting

Districts are annually required to publicly report seating capacity by school and grade level so families can easily access data on available seats.

#5 Children Have Free Access to All Public Schools

School districts should not charge families transfer tuition.

Reason ranks each state on these best practices to get a snapshot of where each state stands. Reason then provides recommendations for each state to improve open enrollment practices.

PART 4

STATES WITH MODEL OPEN ENROLLMENT POLICIES

While no state currently meets every best practices standard on Reason’s checklist, some states still provide good models for other states to replicate. Notably, these states’ demographics span the political spectrum, showing that these reforms appeal to policymakers on both sides of the aisle.

Wisconsin. During the 2020-2021 academic year, 70,428 students—approximately 9% of the state’s students—participated in Wisconsin’s cross-district transfer option.⁴¹ Since launching in 1998, the program grew by more than 2,700%.⁴² In a report by the Wisconsin Institute for Law and Liberty, Jessica Holmberg and Will Flanders found that Wisconsin parents made transfer decisions based on district academic performance.⁴³

⁴¹ “Public School Open Enrollment in Wisconsin 2020-21,” Wisconsin Department of Public Instruction, www.dpi.wi.gov, November 2021, www.dpi.wi.gov/open-enrollment/data (accessed 3 August 3, 2022); “** CORRECTED ** DPI releases fall student count and revenue limit information” Wisconsin Department of Public Instruction, October 15, 2021, www.dpi.wi.gov/news/releases/2021/fall-student-count-wisconsin-revenue-limits (accessed 3 August 2022).

⁴² Smith, “Wisconsin’s open enrollment policy success is a model for states looking to increase educational opportunities.”

⁴³ Jessica Holmberg and Will Flanders, PhD, “Public School Choice in Wisconsin: A Work in Progress,” Wisconsin Institute for Law and Liberty, January 2021, <https://will-law.org/wisconsins-open-enrollment-program-provides-critical-school-choice-option-for-62000-students/>.

The Badger State meets more than half of Reason’s policy goals. It provides cross-district open enrollment, does not allow districts to charge tuition to transfer students, and requires the SEA to publicly report important open enrollment data. In fact, Wisconsin’s transparency practices are some of the best in the nation, providing a wealth of information about open enrollment including key data, such as the number of transfers to and from each school district, and the reasons transfer applications were rejected. Despite its shortcomings in other aspects, Wisconsin’s open enrollment policy outshines other states due to its impressive transparency practices.

The most laudable facet of Wisconsin’s open enrollment option is the state’s funding mechanism for transfer students. “The state has established a statewide per-pupil amount...that follows transfer students to their new school districts. This funding amount is updated annually by the state legislature. These students are still counted in their home school districts’ enrollment for funding purposes, with transfer amounts for exiting students deducted from their state aid.”⁴⁴ In particular, Wisconsin’s approach to open enrollment funding establishes uniform per-pupil amounts, maximizing transparency and financially incentivizing all districts to enroll transfer students.

Florida. The state’s open enrollment law, which already incorporates four of the five proposed policy reforms, could serve as an ideal model for other states. All school districts in the Sunshine State are required to participate in both cross- and within-district open enrollment. Florida’s public schools must regularly report the number of available seats by grade level. Each school district determines its available capacity by incorporating “the specifications, plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs” required by state law.⁴⁵ Moreover, they cannot charge transfer students’ families tuition or fees. School districts can also provide transportation options to transfer students.⁴⁶

Nearly 273,500 students used Florida’s open enrollment options during the 2018-2019 school year. Of these students, nearly 5,700 enrolled in a school outside their assigned school district that year. In fact, more than half of the students using Florida’s open enrollment options are eligible for the federal Free and Reduced Price Lunch program—a

⁴⁴ Smith, “Wisconsin open enrollment policy success is a model for states looking to increase educational opportunities.”

⁴⁵ The 2021 Florida State 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 3 August 2022).

⁴⁶ Schwalbach, “States can help public school students succeed by expanding open enrollment policies.”

proxy for poverty—showing that low-income families use open enrollment to access education options outside their assigned school.⁴⁷

Yet Florida could further improve its open enrollment policy by requiring the SEA to publish data on transfer students to ensure that schools do not reject applicants without reasonable cause. This update would make Florida’s law the cutting edge of open enrollment policies.

Colorado. The state meets more than half of the Reason’s best open enrollment practices. Like Florida and Delaware, the Centennial State requires public schools to participate in both cross-district and within-district open enrollment. According to Ragland and Hulse’s 2018 report, more than 145,000 Colorado students—16% of the state’s public school population—attended a traditional public school other than their geographically assigned one. This “population [is] larger than total public charter school, public magnet, private school, or home-school enrollment in the state,” Ragland noted.⁴⁸ Schools can only reject transfer applicants under certain circumstances, such as lack of capacity. Moreover, they cannot charge tuition to transfer students.

However, Colorado can still make its open enrollment policy more family friendly. Like Florida, the state’s SEA should collect and publish important data on open enrollment, such as the number of transfer applicants and the reasons why transfer applications are rejected. Public accountability measures ensure that some schools and districts do not unfairly discriminate against applicants.

Colorado should also emulate Florida’s policies on capacity reporting. Under the current law, Colorado does not require districts to publicly report the number of available seats. Not only do these data serve as an important public accountability measure, they also facilitate student transfers since parents know the viability of transfer options. Despite the work that needs to be done, Colorado’s open enrollment options illustrate the promise the policies hold.

Delaware. Delaware meets most of Reason’s best practices for open enrollment. In fact, The First State requires all districts to participate in unrestricted open enrollment, meaning that

⁴⁷ Jude Schwalbach and Adrian Moore, “K-12 open enrollment is breaking down barriers in Florida,” Reason Foundation, Commentary, November 4, 2021, <https://reason.org/commentary/k-12-open-enrollment-is-breaking-down-barriers-in-florida/> (accessed 6 September 2022).

⁴⁸ Ragland and Hulse, “Open Doors, Open Districts,” Ready Colorado.”

families can enroll in any school with open seats regardless of where they live. Approximately 12% of students utilize within-district open enrollment, while 3.6% utilize cross-district open enrollment.⁴⁹ The Delaware SEA even provides a portal where families can view schools with open seats and gauge if they are nearing full capacity.⁵⁰ The SEA also encourages families to visit schools to find a good fit.⁵¹

Moreover, Delaware public schools cannot charge transfer students tuition. In fact, the state's funding formula allows most state education dollars to follow the student regardless of the public school district in which they enroll. "A transfer student is counted in a receiving district's enrollment for state and federal funding purposes and the local portion is paid for by the student's home district. In this model, the home district pays the lower local cost per pupil expenditure of the two districts."⁵² If a sending district has excess local funds because a receiving district has less local funding, the excess funds are deposited into Delaware's "School Choice Fund," which covers the difference when a student transfers to a district with higher local funding than their assigned district.⁵³

However, like the Sunshine State, Delaware needs to improve its SEA's reporting on transparency. Currently, the SEA does not track the number of transfer applications or the reason why transfer applications are rejected. Tracking and publishing these data are an important accountability measure so families and policymakers can hold districts accountable for their open enrollment practices. Delaware's school districts also don't publish data about the number of open seats in schools by grade level.

Another drawback to Delaware's open enrollment program is that families must first enroll in their assigned school district before they can transfer to another school district through open enrollment. During this time, the assigned school districts often discourage families from transferring. Requiring families to enroll in their assigned school district first is a cumbersome requirement and gives the home district an unfair advantage in the state's education marketplace.

⁴⁹ 2016-2017 Charter School and Across and Within District Choice," Delaware Department of Education, www.doe.k12.de.us, May 2017, www.doe.k12.de.us/Page/1528 (accessed 30 September, 2022).

⁵⁰ Delaware Department of Education, "Choice Applications."

⁵¹ Delaware Department of Education, School Choice, 2022 www.education.delaware.gov/families/school-choice/ (accessed 3 August 2022).

⁵² Aaron Garth Smith, "How Local Education Funding Favors Politics Over Parents—And How to Fix It," Reason Foundation, October 2018, www.reason.org/wp-content/uploads/how-to-fix-education-funding.pdf (accessed 3 August 2022).

⁵³ Ibid.

Also, the state should reform its transportation policy to account for a more mobile student population. Currently, the code places the burden of transfer student transportation predominantly on parents. While parents can drop their children off at pick-up locations inside the receiving district, school districts are prohibited from transporting transfer students across district boundaries.

Arizona. Like Florida, Arizona meets all open enrollment best practices except SEA transparency. The state has robust cross-district and within-district open enrollment policies. School districts cannot charge transfer students tuition and districts and buses can cross district boundary lines to transport them. While the state does not publicly report the number of students that participate in open enrollment, Arizona Charter School Association’s Matthew Ladner observes that Scottsdale Unified School District enrolled 4,667 cross-district transfer students during the 2019-2020 academic year.⁵⁴ The Arizona Charter School Association’s Kelly Powell and Ildi Laczko-Kerr reported that 49,934 of Maricopa County’s students—31%—utilized open enrollment during the 2016 school year.⁵⁵

Opponents to open enrollment often object to the policy because it could lower the value of homes inside the district or attendance zones, unfairly penalizing families that “bought into the system.” However, the public school choice options available to families in Arizona should allay those fears. The state’s mandatory cross-district and within-district open enrollment program operates side by side with a robust charter school system. Despite the fact that nearly one in four students enrolled in affluent Scottsdale’s public schools is assigned to different school districts, home values have not decreased. In fact, Scottsdale home prices have steadily increased in recent years. This shows that open enrollment does not damage property values; instead a robust education marketplace can actually be an attractive component to home buyers.⁵⁶

However, a significant weakness in Arizona’s open enrollment policy is that school districts can reject transfer applications from students with disabilities, citing program enrollment

⁵⁴ Matthew Ladner, “Suburban property values can surge along with student opportunity,” *Reimagined*, March 21, 2022, www.reimaginedonline.org/2022/03/suburban-property-values-can-surge-along-with-student-opportunity/ (accessed 3 August 2022).

⁵⁵ Kelly Powell and Ildi Laczko-Kerr, “Are District Attendance Zones Obsolete?” Arizona Charter School Association, Nov. 2, 2017, www.azcharters.org/2017/11/02/are-district-attendance-zones-obsolete/ (accessed 3 August 2022).

⁵⁶ Ladner, “Suburban property values can surge along with student opportunity.”

caps. This policy often leaves students with disabilities trapped in their residentially assigned school.⁵⁷

This toolkit aims to guide policymakers as they reevaluate their states' open enrollment laws. While some states only need to make minor tweaks to meet the basic standards of a comprehensive open enrollment law, most states have significant work to do. Using Reason's Best Practices Checklist as a metric: only nine states meet mandatory cross-district open enrollment standards, only seven states meet mandatory within-district open enrollment, only three states have transparent SEA reporting, only 24 states cannot charge transfer students tuition, and only seven states have transparent capacity reporting.

⁵⁷ Karla Philips-Krivickas, "Commentary: Prioritize students, not programs when legislating open enrollment," *ReimaginedED*, May 4, 2021, www.reimaginedonline.org/2021/05/commentary-prioritize-students-not-programs-when-legislating-open-enrollment-2/ (accessed 3 August, 2022); Veronica Ragland, "Public school open enrollment needs to be truly open," *Arizona Capitol Times*, February 19, 2021, www.azcapitoltimes.com/news/2021/02/19/public-school-open-enrollment-needs-to-be-truly-open/ (accessed 3 August 2022).

PART 5

50 STATE ANALYSIS
SUMMARIES

State	Cross-District	Within-District	Transparent SEA Reporting	Capacity Reporting	No Tuition
Alabama	X	X	X	X	X
Alaska	X	X	X	X	X
Arizona	✓	✓	X	✓	✓
Arkansas	X	X	X	X	✓
California	X	X	X	X	X
Colorado	✓	✓	X	X	✓
Connecticut	X	X	X	X	✓
Delaware	✓	✓	X	X	✓
Florida	✓	✓	X	✓	✓
Georgia	X	✓	X	X	X
Hawaii	N/A	X	X	X	✓
Idaho	X	X	X	X	✓
Illinois	X	X	X	X	X
Indiana	X	X	X	X	X
Iowa	✓	X	X	X	X
Kansas	✓	X	✓	✓	✓
Kentucky	X	X	X	X	X
Louisiana	X	X	X	X	✓
Maine	X	X	X	X	✓
Maryland	X	X	X	X	X
Massachusetts	X	X	X	X	✓
Michigan	X	X	X	X	✓
Minnesota	X	X	X	X	✓
Mississippi	X	X	X	X	✓
Missouri	X	X	X	X	X
Montana	X	X	X	X	X
Nebraska	X	X	X	✓	✓

State	Cross-District	Within-District	Transparent SEA Reporting	Capacity Reporting	No Tuition
Nevada	X	X	X	X	X
New Hampshire	X	X	X	X	✓
New Jersey	X	X	X	X	X
New Mexico	X	X	X	X	X
New York	X	X	X	X	X
North Carolina	X	X	X	X	X
North Dakota	X	X	X	X	X
Ohio	X	X	X	X	X
Oklahoma	✓	X	✓	✓	✓
Oregon	X	X	X	X	X
Pennsylvania	X	X	X	X	✓
Rhode Island	X	X	X	X	✓
South Carolina	X	X	X	X	X
South Dakota	X	X	X	X	X
Tennessee	X	✓	X	✓	X
Texas	X	X	X	X	X
Utah	✓	✓	X	✓	✓
Vermont	X	X	X	X	✓
Virginia	X	X	X	X	X
Washington	X	X	X	X	X
West Virginia	X	X	X	X	✓
Wisconsin	✓	X	✓	X	✓
Wyoming	X	X	X	X	X
Positive policies on the books	9/49	7/50	3/50	7/50	24/50

ALABAMA

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



Alabama has neither cross-district nor within-district open enrollment options, mandatory or voluntary in statute.⁵⁸ The state does permit student transfers when students are assigned to persistently dangerous or unsafe schools.⁵⁹ Districts are not required to post their available capacity.

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

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

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

⁵⁸ Congressional Research Service, "Overview of Public and Private School Choice Options," January 13, 2022, www.crsreports.congress.gov/product/pdf/IF/IF10713 (accessed 3 August 2022).

⁵⁹ 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 3 August 2022); 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 3 August 2022).

ALASKA

Alaska misses the mark on open enrollment.

Alaska does not have mandatory or voluntary cross-district or within-district open enrollment policies. Also, the Last Frontier State scores low marks on transparency since it does not require districts to publicly report their capacity or 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.



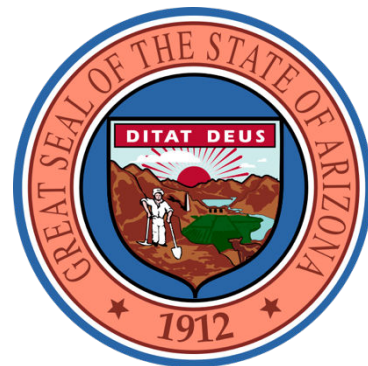
Alaska policymakers could improve their open enrollment options in three primary ways:

- Require school districts to have mandatory 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 mandatory 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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

ARIZONA

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



Arizona requires all districts to participate in mandatory cross-district and within-district open enrollment.⁶⁰ 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, are 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.⁶¹
- Sharpen open enrollment language in the statute to clarify that transfer students can only be rejected for limited reasons, i.e. capacity.

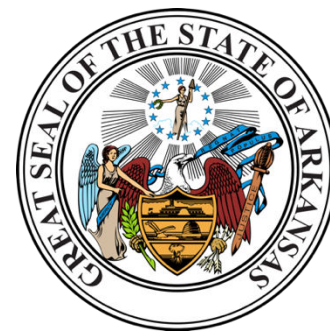
⁶⁰ Arizona State Legislature, Article 1.1, Open School Enrollment, 15-816, www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/15/00816.htm (accessed 3 August 2022).

⁶¹ See conclusion for open enrollment transportation policy recommendations.

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

ARKANSAS

Arkansas' open enrollment is weakened by participation caps.



All school districts are required to participate in Arkansas' mandatory cross-district open enrollment program, the Public School Choice Option. Each district is required to notify the public of the program via the internet, broadcast media, or print media. However, the number of transfer students leaving their residential district cannot exceed more than 3% of the residential district's total enrollment from the previous year (net maximum limit).⁶² This enrollment cap significantly cripples Arkansas' open enrollment option. Only students residentially assigned to a school having a letter grade of "F" or if the district is in need intensive support are eligible to participate in Arkansas' within-district open enrollment option, Opportunity School Choice.

Applicants with siblings and step-siblings who attend the school have priority over other applicants. Districts cannot consider the gender, national origin, race, ethnicity, religion, or disability of an applicant.⁶³ The state does not permit school districts to charge transfer students' families tuition.

The Natural State does not require school districts to publicly report their available capacity by grade level. Districts must report the number of within-district transfers to the SEA, which publishes the data in an annual report. However, the SEA does not collect or publish data regarding the number of cross-district transfers or the reasons why transfer applications were rejected.⁶⁴

⁶² Arkansas Code Title 6. Education § 6-18-1903. Public school choice program established, <https://codes.findlaw.com/ar/title-6-education/ar-code-sect-6-18-1903.html> (accessed 30 September, 2022); Arkansas Code Title 6. Education § 6-18-1906. Limitations.

⁶³ Arkansas Code Title 6. Education § 6-18-227. Arkansas Opportunity Public School Choice Act, <https://codes.findlaw.com/ar/title-6-education/ar-code-sect-6-18-227.html> (accessed 30 September, 2022).

⁶⁴ Arkansas Code Title 6. Education § 6-18-1905. Application for a transfer; Arkansas Code Title 6. Education § 6-18-1906. Limitations; Application for School Choice Transfer, https://dese.ade.arkansas.gov/Files/School_Choice_Form_and_FAQ_20220114150842.pdf (accessed 3 August 2022).

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

- Remove all participation caps from cross-district open enrollment (Public School Choice Option).
- Remove the eligibility caps from within-district open enrollment (Opportunity School Choice).
- Require school districts to annually publish their available capacity by grade level.

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

CALIFORNIA

California needs to integrate and strengthen its open enrollment.



California operates three cross-district and one within-district open enrollment programs. The state's mandatory 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.⁶⁵ 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.⁶⁶ Cross-district transfer 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 policy and procedures on their website in all pertinent languages and are encouraged to report their transfer data to the SEA.⁶⁷

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.⁶⁸ 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 published annually by the SEA.⁶⁹

⁶⁵ 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 4 August 2022).

⁶⁶ "Follow-Up Evaluation of the District of Choice Program," Legislative Analyst's Office.

⁶⁷ 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 4 August 2022).

⁶⁸ "Follow-Up Evaluation of the District of Choice Program," Legislative Analyst's Office.

⁶⁹ 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 4 August 2022).

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.⁷⁰

California policymakers can improve open enrollment in three main ways:

- Consolidate the various cross-district open enrollment options into the District of Choice Program and make it mandatory.
- Make the within-district option mandatory for all school districts and require them to post their policies and procedures on their websites.
- Ensure that Basic Aid districts are financially incentivized to enroll transfer students.

Best Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X*
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

*The asterisk signifies that the state just misses having good policy by not requiring districts to post their policies and procedures on their websites.

⁷⁰ California Legislative Information, Code, Title 2, Division 4, Part 27, Chapter 2, Article 1, Section 48204, https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=48204.&lawCode=EDC.

COLORADO

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



The state requires all school districts to participate in mandatory 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.⁷¹

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 the available capacity on the district 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.⁷²

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.
- Permit all districts to transport transfer students across district boundaries.

⁷¹ 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 4 August 2022).

⁷² 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 4 August 2022); Ragland and Hulse, "Open Doors, Open Districts."

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

CONNECTICUT



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.⁷³ 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 their home address.⁷⁴ However, the families of transfer students who utilize Open Choice cannot be charged the cost of tuition. Connecticut is one of the 23 states that does not permit districts to charge families tuition. The state also permits voluntary within-district open enrollment, allowing parents to select their desired schools.⁷⁵ 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.⁷⁶

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.

⁷³ General Statutes of Connecticut, Title 10, Chapter 172, Sec. 10-266aa, www.cga.ct.gov/current/pub/chap_172.htm#sec_10-266aa (accessed 4 August 2022).

⁷⁴ 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 3 August 2022).

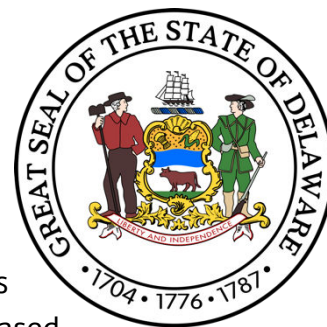
⁷⁵ General Statutes of Connecticut, Title 10, Chapter 170, Section 10-221e, https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221e (accessed 4 August 2022).

⁷⁶ Connecticut Department of Education, Open Choice Programs, <https://portal.ct.gov/SDE/School-Choice/CT-School-Choice/Open-Choice-Programs> (accessed 3 August 2022).

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

DELAWARE

Delaware meets most open enrollment best practices.



In Delaware, school districts are required to participate in mandatory 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 should be filled by a randomized lottery. Districts must post their open enrollment policies on their websites.⁷⁷ The state portal publishes which schools have open seats, but does not show the number of seats available in each grade level.⁷⁸

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, 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.⁷⁹

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 school districts to publish the number of available seats by grade level.
- Don't require families to enroll in their assigned public school before they can participate in open enrollment.

⁷⁷ Delaware Department of Education, "Delaware's Public School Choice Applications."

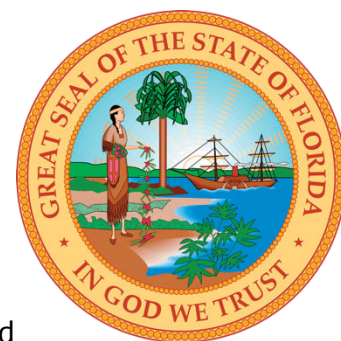
⁷⁸ Ibid.

⁷⁹ Delaware Code Online, Title 14, Chapter 4 School District Enrollment Choice Program, Section 401-414, <https://delcode.delaware.gov/title14/c004/index.html> (accessed 4 August 2022).

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

FLORIDA

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



Florida requires all school districts to participate in mandatory 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.⁸⁰ 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.⁸¹

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 less 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.⁸²

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.⁸³

⁸⁰ 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 4 August 2022).

⁸¹ Nastasi, “Florida’s Open Enrollment Policy Can Serve As a School Choice Model.”

⁸² 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 4 August 2022).

⁸³ The 2021 Florida Statutes, Title XLVIII, Chapter 1002.31.

Florida’s New Proposal

In February 2022, Florida policymakers introduced a proposal that would fortify the state’s already strong district transparency reporting. This new proposal would:

- Require each school to determine its available capacity by grade level every 12 weeks and post the updated information on their website;
- Require school districts to maintain a wait list of students who are denied access due to capacity and notify parents when space becomes available;
- Require schools to accept students throughout the school year as capacity becomes available.

While the proposal died in appropriations, it illustrates how open enrollment laws can improve. While other states would do well to emulate the current policy, they should also recognize that Florida’s policy still has room to grow.⁸⁴

While Florida’s open enrollment policy is worthy of emulation, the Sunshine State’s policymakers can still improve it 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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	✓
Mandatory Within-District Open Enrollment	✓
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	✓
Children Have Free Access to All Public Schools	✓

⁸⁴ The Florida Senate, Session 2022, CS/HB 5101: Education, www.flsenate.gov/Session/Bill/2022/5101#:~:text=CS%2FHB%205101%3A%20Education&text=Education%3B%20Revises%20provisions%20relating%20to,%2C%20virtual%20instruction%20programs%20%26%20FEFP (accessed 4 August 2022).

GEORGIA

Georgia is one of seven 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.⁸⁵ Even more constraining, all school districts must participate in mandatory within-district open enrollment, but the policy is diminished by the fact that no newly opened schools can participate in within-district open enrollment until four years after opening.⁸⁶ This is especially disappointing since Georgia's within-district policy has some strong components, such as requiring districts to publish which schools have open seats 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.⁸⁷

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

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

⁸⁵ Georgia Code Title 20. Education § 20-2-293, <https://codes.findlaw.com/ga/title-20-education/ga-code-sect-20-2-293.html> (accessed 4 August 2022).

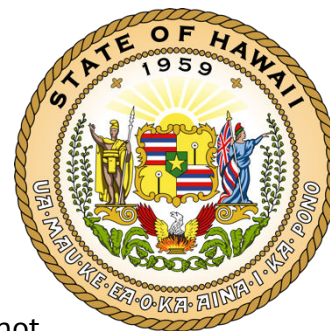
⁸⁶ Georgia Code Title 20. Education § 20-2-2131, <https://codes.findlaw.com/ga/title-20-education/ga-code-sect-20-2-2131.html>.

⁸⁷ 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 4 August 2022).

HAWAII

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.⁸⁸

Schools prioritize transfer applications for 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.⁸⁹

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 mandatory 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.

⁸⁸ 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 4 August 2022); 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 4 August 2022).

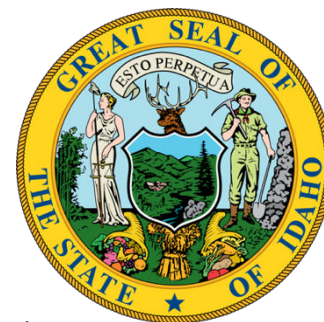
⁸⁹ Hawaii Administrative Rules, Title 8 Department of Education, Subtitle 2 Education, Part 1 Public Schools, Chapter 13 Geographical Exceptions, <https://boe.hawaii.gov/policies/AdminRules/Pages/AdminRule13.aspx> (accessed 4 August 2022).

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

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

IDAHO

Idaho barely misses having good transparency reporting.



Idaho permits students to transfer schools via voluntary cross-district and within-district open enrollment. However, districts are not required to post about their open enrollment options on their websites. Moreover, districts can opt out of the “enrollment options program” by resolution of the board of trustees. Districts do not have to post their available capacity on their websites.⁹⁰ Families must apply annually for admission to their non-assigned school. Receiving school districts must accept transfer students when the sending district pays for the transfer student’s tuition or when the tuition fee is waived by the receiving district, “except when any such transfer would work a hardship on the receiving district.”⁹¹

Although the Gem State does not require districts to report the reasons transfer applications were rejected, the state conducts an annual survey of school districts participating in open enrollment. The most recent survey indicated that 96% of school districts participate in cross-district or within-district open enrollment.⁹² The survey also tracks the number of transfer applications accepted or rejected.⁹³ School districts cannot charge transfer students tuition, which must be paid or waived by the sending or receiving districts respectively.⁹⁴

Idaho policymakers could improve their open enrollment options in three key ways:

- Eliminate districts’ “opt out” provision, so all districts have to participate in both cross-district and within-district open enrollment.
- Require districts to post about their open enrollment options on their websites.
- Require districts to post about available capacity on their websites.

⁹⁰ Idaho Statutes, Title 33 Education, Chapter 14 Transfer of Pupils, 33-1402 Enrollment Options, <https://legislature.idaho.gov/statutesrules/idstat/Title33/T33CH14/SECT33-1402/> (accessed 4 August 2022).

⁹¹ Idaho Statutes, Title 33 Education, Chapter 14 Transfer of Pupils, 33-1404 Districts to Receive Students, <https://legislature.idaho.gov/statutesrules/idstat/Title33/T33CH14/SECT33-1404/> (accessed 4 August 2022).

⁹² Idaho State Department of Education, Legislative Priorities, Reports to Meet Statutory or Legislative Appropriation Requirements, Open Enrollment, FY2022 Open Enrollment Report, <https://www.sde.idaho.gov/superintendent/leg-priorities.html> (accessed 4 August 2022).

⁹³ Idaho Statutes, Title 33 Education, Chapter 14 Transfer of Pupils, 33-1402 Enrollment Options.

⁹⁴ Idaho Statutes, Title 33 Education, Chapter 14 Transfer of Pupils, 33-1404.

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

ILLINOIS

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.⁹⁵ School districts can charge cross-district transfers tuition.⁹⁶ 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 no more than \$1,500.⁹⁷

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 district).⁹⁸

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.

⁹⁵ 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 4 August 2022).

⁹⁶ 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 4 August 2022).

⁹⁷ 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 4 August, 2022); 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 4 August 2022).

⁹⁸ 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 4 August 2022).

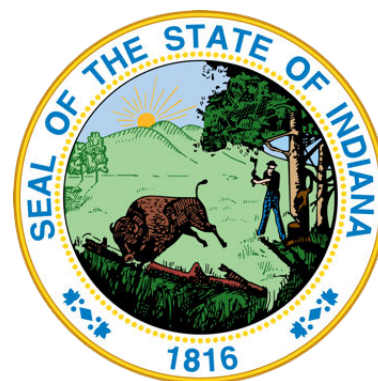
Illinois policymakers can improve their open enrollment options in three main ways:

- Require districts to participate in mandatory cross-district open enrollment and require them to post about these options on district websites.
- Require districts to participate in mandatory 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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

INDIANA

Indiana's weak open enrollment policy is redeemed by the state's impressive student-centered funding.



In the Hoosier State, only Indianapolis schools are required to participate in mandatory 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.⁹⁹ 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.¹⁰⁰

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.¹⁰¹

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 education funding formula so that the state funded 100% of school operations.¹⁰² By eliminating local 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.¹⁰³ This

⁹⁹ 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 4 August 2022).

¹⁰⁰ Indiana Code Title 20 Education, §20-26-11-5-6.5, 13, 17,32, <https://codes.findlaw.com/in/title-20-education/#!tid=N1045C4307FFE11DB8132CD13D2280436> (accessed 4 August, 2022).

¹⁰¹ Indiana Department of Education, Public Corporation Transfer Report, www.in.gov/doe/files/Archived-Public-Corp-Transfer-Report.pdf (accessed 4 August 2022).

¹⁰² 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 3 August 2022).

¹⁰³ Aaron Garth Smith, "How Local Education Funding Favors Politics Over Parents--And How to Fix It," Reason Foundation, October 2018, <https://reason.org/policy-brief/how-local-education-funding-favors-politics-over-parents-and-how-to-fix-it/> (accessed 30 September, 2022).

reform guaranteed that school districts received the full per-pupil amount for all transfer students, encouraging many of them to participate in cross-district open enrollment. In fact, the number of cross-district transfers grew from 3,000 participants in 2008 to 75,000 participants in 2021.¹⁰⁴

Even though Indiana has a school-choice-friendly atmosphere, state policymakers can improve their open enrollment options in three main ways:

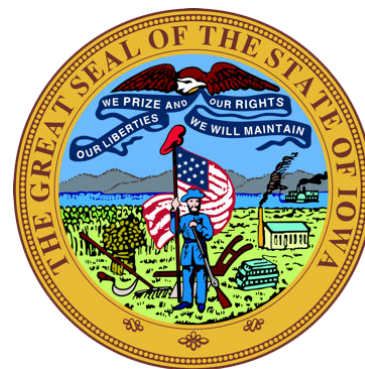
- Require all districts to participate in mandatory cross-district open enrollment.
- Require all districts to participate in mandatory within-district open enrollment.
- Require the SEA to publish the reason why transfer applications were rejected.

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

¹⁰⁴ Fall 2021-2022 Public Corporation Transfer Report. Indiana Department of Education. www.in.gov/doi/data-center-and-reports/?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term= (accessed 3 August 2022).

IOWA

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



All districts are required to participate in mandatory 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.¹⁰⁵

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

- Require districts to participate in mandatory 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.

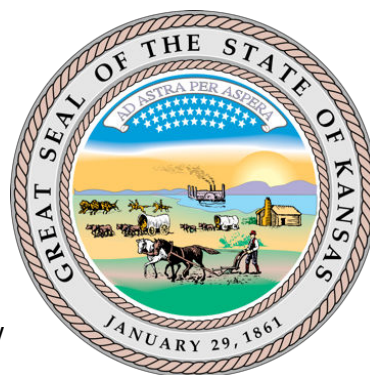
Best Policy	Current Policy
Mandatory Cross-District Open Enrollment	✓
Mandatory Within-District Open Enrollment	✗
Transparent Reporting by the State Education Agency (SEA)	✗
Transparent School Capacity Reporting	✗
Children Have Free Access to All Public Schools	✗

¹⁰⁵ Iowa Code 2021, Title VII Education and Cultural Affairs, §282.18 Open Enrollment, www.legis.iowa.gov/docs/code/282.18.pdf (accessed 4 August 2022); Iowa Administrative Code, Education 281, Chapter 17 Open Enrollment, www.legis.iowa.gov/docs/ACO/chapter/281.17.pdf (accessed 4 August 2022).

KANSAS

Kansas is the latest example of a new and outstanding open enrollment law.

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 mandatory 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 their 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.¹⁰⁶

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

- Require districts to participate in mandatory 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 1-30).
- Implement quarterly audits of school district capacity.

¹⁰⁶ Senate Substitute for House Bill No. 2567, www.kslegislature.org/li/b2021_22/measures/documents/hb2567_enrolled.pdf (accessed 4 August 2022).

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

KENTUCKY

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. 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.¹⁰⁷

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.¹⁰⁸

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.

Kentucky policymakers can improve its open enrollment policy in three main ways:

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

¹⁰⁷ House Bill 563 <https://apps.legislature.ky.gov/record/21rs/hb563.html> (accessed 4 August 2022).

¹⁰⁸ Kentucky Revised Statutes 2021, Chapter 159, §159.070, <https://law.justia.com/codes/kentucky/2021/chapter-159/section-159-070/> (accessed 4 August 2022); Kentucky Revised Statutes 2021, Chapter 158 §158.120, <https://law.justia.com/codes/kentucky/2021/chapter-158/section-158-120/> (accessed 4 August, 2022).

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

LOUISIANA

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.¹⁰⁹

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.”¹¹⁰ 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.”¹¹¹ 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.

¹⁰⁹ Louisiana State Legislature, RS 17 §4035.1. Public school choice, <https://legis.la.gov/legis/Law.aspx?p=y&d=920128> (accessed 4 August 2022).

¹¹⁰ 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 4 August 2022).

¹¹¹ Ibid.

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

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

MAINE

Maine meets almost 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.¹¹²



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

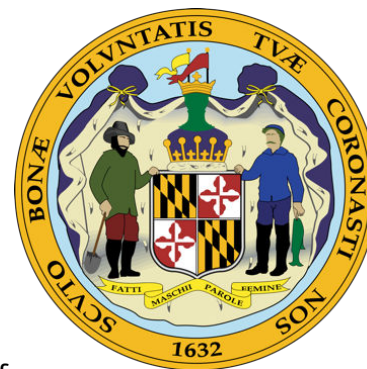
- Require districts to participate in cross-district open enrollment, posting policies and procedures on their websites.
- Require districts to participate in within-district open enrollment, posting policies and procedures on their websites.
- Require schools to post their available capacity on their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

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

¹¹² 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 4 August 2022).

MARYLAND

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.¹¹³

Maryland policymakers can improve its open enrollment options in three main ways:

- Establish mandatory cross-district open enrollment, requiring districts to post open enrollment policies and procedures on their websites.
- Establish mandatory 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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

¹¹³ 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 4 August 2022); Congressional Research Service, “Overview of Public and Private School Choice Options.”

MASSACHUSETTS

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.¹¹⁴

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.¹¹⁵ At the same time, districts cannot charge tuition to transfer students.¹¹⁶

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.

¹¹⁴ Commonwealth of Massachusetts, General Laws, Part I, Title XII, Chapter 76, § 12, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter76/Section12> (accessed 4 August 2022); Commonwealth of Massachusetts, General Laws, Part I, Title XII, Chapter 76, § 12a, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter76/Section12A> (accessed 4 August 2022).

¹¹⁵ Massachusetts Department of Elementary and Secondary Education, SIMS Summary Report Explanation, www.doe.mass.edu/infoservices/data/sims/sumreports.html (accessed 3 August 2022).

¹¹⁶ Commonwealth of Massachusetts, General Laws, Part I, Title XII, Chapter 76 § 12b(e), <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter76/section12B> (accessed 4 August 2022).

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

MICHIGAN

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. 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.¹¹⁷ 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.¹¹⁸ 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.¹¹⁹

Unfortunately, the Great Lake 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.
- Require all 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.

¹¹⁷ Michigan Legislature, Michigan Compiled Laws § 388.1705c Sec 105c. Enrollment by nonresident applicants residing in district located in a contiguous intermediate district. [http://www.legislature.mi.gov/\(S\(lrtq0vat432gw31gpvxjhdnsn\)\)/mileg.aspx?page=GetObject&objectname=mcl-388-1705c](http://www.legislature.mi.gov/(S(lrtq0vat432gw31gpvxjhdnsn))/mileg.aspx?page=GetObject&objectname=mcl-388-1705c) (accessed 4 August 4, 2022).

¹¹⁸ Ibid.

¹¹⁹ 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 4 August 2022).

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

MINNESOTA

Minnesota's open enrollment options fall short.



School districts in Minnesota must participate in mandatory 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.”¹²⁰

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 2020-21 school year.¹²¹ Districts cannot charge fees to transfer students.¹²²

The North Star State does not have a mandatory within-district open enrollment option and districts are not required to post their available capacity on their websites.¹²³ 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.¹²⁴

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

- Require districts to post their cross-district open enrollment policies and procedures on their websites.

¹²⁰ 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 4 August 2022).

¹²¹ Minnesota Department of Education, Students and Families, “Open Enrollment,” <https://education.mn.gov/MDE/fam/open/> (accessed 4 August 2022).

¹²² 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 4 August 2022).

¹²³ Minnesota Department of Education, “Open Enrollment.”

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

- Require districts to establish mandatory within-district open enrollment policies that require them to post policies and procedures on their websites.
- Require the SEA to publish pertinent open enrollment data.

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

*The asterisk signifies that the state just misses having good policy by not requiring districts to post their open enrollment policies or procedures on their websites.

MISSISSIPPI

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. 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.¹²⁵ 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.¹²⁶

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

¹²⁵ 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 4 August 2022).

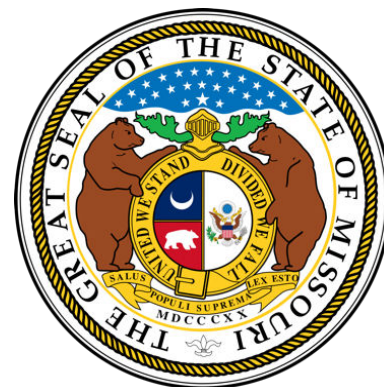
¹²⁶ Mississippi Code Title 37. Education § 37-15-29. Enrollment or attendance location; residence; exceptions, <https://codes.findlaw.com/ms/title-37-education/ms-code-sect-37-15-29.html> (accessed 4 August 2022).

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

MISSOURI

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.¹²⁷



Only unaccredited school districts (districts which fail to meet Missouri standards for academic or financial reasons) are required to participate in mandatory cross-district open enrollment.¹²⁸ 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. However, there are no unaccredited school districts currently in the state.¹²⁹

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

¹²⁷ 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 4 August 2022).

¹²⁸ 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 3 August 2022).

¹²⁹ Evan Rhinesmith, PhD and Amy J. Shelton, “Missouri’s Student Transfer Law,” St. Louis University, Prime Center, July 25, 2019, www.sluprime.org/prime-blog/transfers#:~:text=Currently%2C%20there%20are%20no%20unaccredited,students%20who%20chose%20to%20transfer (accessed 3 August 2022).

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

MONTANA

Montana does not meet any of the best open enrollment practices.



While there are specific situations where cross-district open enrollment is mandatory, on the whole, Montana school districts participate in cross-district open enrollment on a voluntary basis. Transfer applicants must typically receive the approval of both the sending and receiving school districts.

Cross-district open enrollment is only mandatory under unique travel circumstances, such as excessive travel time or dangerous travel conditions. The County Transportation Committee establishes if these circumstances exist for a family. However, even under these circumstances, the receiving district can still reject the application (excluding students with disabilities) if the accreditation of the school would be adversely affected by the acceptance of the child due to insufficient room and overcrowding.¹³⁰

The Treasure State does not have a within-district transfer policy and does not require districts to post their available capacity on their websites. School districts are required to annually report the number of transfer students attending their districts to the Superintendent of Public Instruction, but they are not required to report the reasons transfer applications were denied.¹³¹

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

- Require all districts to participate in cross-district open enrollment, posting pertinent policies and procedures online.
- Require all districts to participate in within-district open enrollment, posting pertinent policies and procedures online.

¹³⁰ Montana Code Annotated 2021, Title 20, Chapter 5, Part 3, Section 20-5-320, https://leg.mt.gov/bills/mca/title_0200/chapter_0050/part_0030/section_0200/0200-0050-0030-0200.html (accessed 4 August 2022); Montana Code Annotated 2021, Title 20, Chapter 5, Part 3, Section 20-5-321, https://leg.mt.gov/bills/mca/title_0200/chapter_0050/part_0030/section_0210/0200-0050-0030-0210.html (accessed 4 August 2022); Montana Code Annotated 2021, Title 20, Chapter 5, Part 3, Section 20-5-322, https://leg.mt.gov/bills/mca/title_0200/chapter_0050/part_0030/section_0220/0200-0050-0030-0220.html (accessed 4 August 2022).

¹³¹ Montana Code Annotated 2021, Title 20, Chapter 5, Part 3, Section 20-5-324, https://leg.mt.gov/bills/mca/title_0200/chapter_0050/part_0030/section_0240/0200-0050-0030-0240.html (accessed 4 August 2022).

- Require districts to publicly report all pertinent open enrollment data, including the reasons why transfer applications were rejected.

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

NEBRASKA

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

All districts are required to participate in mandatory cross-district open enrollment and can only reject transfer students for limited reasons. However, districts are not required to post their open enrollment policies or procedures online. On the other hand, districts are required to post their available capacity online and cannot charge transfer students the cost of tuition.¹³²



The state code requires districts to prioritize the siblings of transfer students, students previously enrolled through open enrollment, and those that contribute 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 Free or Reduced Priced Lunch (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.¹³³

The Cornhusker State does not have a within-district open enrollment option. Nor are districts required to publicly report pertinent open enrollment data to the SEA.

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.
- 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 number of transfer students and the reasons why transfer applications were rejected.

¹³² Nebraska Legislature, Nebraska Revised Statutes, Chapter 79, §237-238, 243, 2110.01, <https://nebraskalegislature.gov/laws/browse-chapters.php?chapter=79> (accessed 4 August 2022).

¹³³ Nebraska Revised Statute 79-2110, <https://nebraskalegislature.gov/laws/statutes.php?statute=79-2110> (accessed 4 August 2022).

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

*The asterisk signifies that the state just misses having good policy by not requiring school districts to post their open enrollment policies and procedures on their website.

NEVADA

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.¹³⁴



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.

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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

¹³⁴ Nevada State Code, Chapter 388 System of Public Instruction, NRS 388.040, <https://www.leg.state.nv.us/nrs/nrs-388.html#NRS388Sec040> (accessed 4 August 2022).

NEW HAMPSHIRE

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.¹³⁵

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

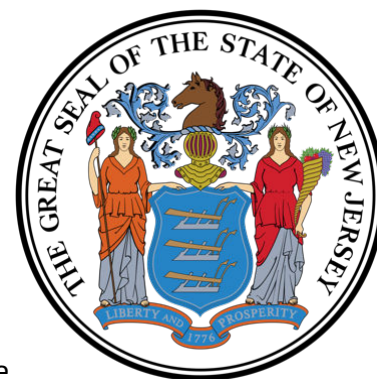
- Require districts to participate in cross-district open enrollment, posting policies and procedures online.
- Require districts to participate in within-district open enrollment, posting policies and procedures online.
- Require districts to post their available capacity.

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

¹³⁵ RSA 194-D <http://www.gencourt.state.nh.us/rsa/html/XV/194-D/194-D-mrg.htm> (accessed 4 August 2022).

NEW JERSEY

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



New Jersey operates a voluntary cross-district open enrollment option that is due to sunset in 2024.¹³⁶ Currently, nearly 18% of New Jersey school districts participate in it.¹³⁷ Students must have been enrolled in their assigned school to be eligible for the program. Schools can only participate if they have available capacity and have been approved by the commissioner for program participation.¹³⁸ 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.¹³⁹ Any school district that does not participate in open enrollment, however, can charge tuition to transfer students.¹⁴⁰

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.

¹³⁶ N.J.A.C. 6A:12, Interdistrict Public School Choice, www.nj.gov/education/code/current/title6a/chap12.pdf (accessed 4 August 2022).

¹³⁷ New Jersey Department of Education, "Interdistrict Public School Choice," www.nj.gov/education/choice/ (accessed 4 August 2022).

¹³⁸ New Jersey Department of Education, Interdistrict Public School Choice Program, "Policy and FAQs," www.nj.gov/education/choice/cdistricts/faq/#Tuitionandchoiceprograms (accessed 4 August 2022).

¹³⁹ N.J.A.C. 6A:12, New Jersey Department of Education, Interdistrict Public School Choice.

¹⁴⁰ 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 4 August 2022).

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

NEW MEXICO

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-connected 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.¹⁴¹



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.

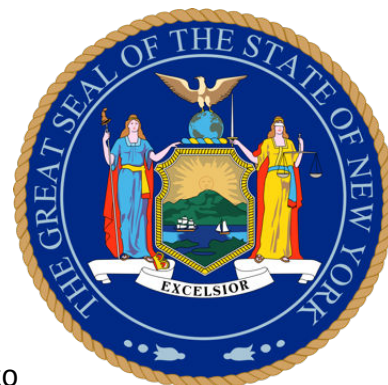
Best Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

¹⁴¹ 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 4 August 2022); 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 4 August 2022).

NEW YORK

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.¹⁴²



To participate in the program, districts must prove that (1) they anticipated declines in minority students and that allowing transfer students will improve diversity, and (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.¹⁴³ Only 16 out of 731 New York school districts participate in the program.¹⁴⁴

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.

¹⁴² 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 4 August 2022); 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 4 August 2022).

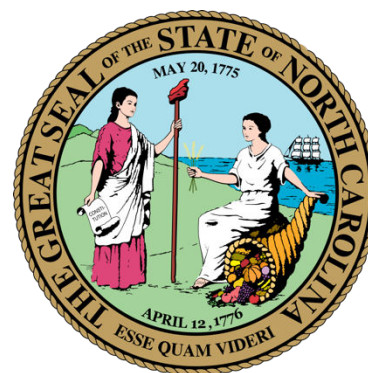
¹⁴³ Ibid.

¹⁴⁴ Monroe One, "Urban-Suburban," www.monroe.edu/Page/2639 (there are 16 participating districts) (accessed 3 August, 2022); New York State Department of Education, "New York State Education at a Glance," <https://data.nysed.gov/>(there are 731 school districts) (accessed 3 August 2022).

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

NORTH CAROLINA

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



The Tar Heel State does not have any open enrollment options.¹⁴⁵

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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

¹⁴⁵ Congressional Research Service, “Overview of Public and Private School Choice Options.”

NORTH DAKOTA

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



While school districts in North Dakota can participate in voluntary cross-district open enrollment, students must submit transfer applications to the school boards of both the sending and receiving districts (each board sets its own standards for acceptance or rejection of applications). All transfer applications must be reviewed in the order they are received. If a board determines that the school district influenced a family's decision to submit a transfer application in any way, the board must reject all transfer applications and the superintendent of public instruction can withhold a part or all state aid from the school district for a year.¹⁴⁶

The Peace Garden State does not have a within-district open enrollment program and its cross-district option lacks transparency. If the sending district refuses to pay the cost of tuition or sign the tuition waiver contract, families must pay at least 50% of the cost of tuition on the day of enrollment and the remaining amount by December 31st.¹⁴⁷

North Dakota 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.

¹⁴⁶ North Dakota Legislative Branch, North Dakota Century Code, Title 15.1 Elementary and Secondary Education, 15.1-31, <https://www.ndlegis.gov/cencode/t15-1c31.html> (accessed 4 August 2022).

¹⁴⁷ North Dakota Legislative Branch, North Dakota Century Code, Title 15.1 Elementary and Secondary Education, 15.1-29-07, <https://www.ndlegis.gov/cencode/t15-1c29.pdf#nameddest=15p1-29-07> (accessed 4 August 2022).

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

OHIO

Ohio just misses having 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 transfer 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.¹⁴⁸

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. Unfortunately, some districts' open enrollment policy is to not accept any transfer students. 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.¹⁴⁹

Although the SEA publicly reports which districts participate in open enrollment and to what degree, they do not track why transfer applications were rejected.¹⁵⁰ 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, posting their policies and procedures on their district websites.

¹⁴⁸ 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 4 August 4, 2022); §3313.98, <https://codes.ohio.gov/ohio-revised-code/section-3313.98> (accessed 4 August 2022); §3313.981, <https://codes.ohio.gov/ohio-revised-code/section-3313.981> (accessed 4 August 2022).

¹⁴⁹ Open Enrollment, Overview and Explanation, February 2015, <https://education.ohio.gov/getattachment/Topics/Ohio-Education-Options/Public-Schools/Forms-and-Program-Information-for-Traditional-Publ/OE-Overview-February-2015.pdf.aspx?lang=en-US> (accessed 4 August 2022).

¹⁵⁰ 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 4 August 2022); Carlson, "Open Enrollment and Student Diversity in Ohio's Schools."

- Require all districts with within-district open enrollment to post their policies and procedures on their websites.
- Require districts to publicly report their available capacity.

Best Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X*
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

*The asterisk signifies that the state just misses having good policy by not requiring districts to post their open enrollment policies and procedures on their websites.

OKLAHOMA

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



In Oklahoma, all districts must participate in mandatory 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.¹⁵¹ If the number of transfer applications exceeds the available spots, then applications should be 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.¹⁵² Districts can prioritize applications from school employees and the siblings of current students. School districts cannot charge transfer students tuition.¹⁵³

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.¹⁵⁴

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.¹⁵⁵

¹⁵¹ 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 4 August 2022).

¹⁵² Ibid.

¹⁵³ 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/> 9 (accessed 4 August 2022).

¹⁵⁴ Oklahoma Statutes Title 70, Article VIII - Transfer of Pupils Section 8-101.2.

¹⁵⁵ Ibid.

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.
- Transfer students should not be required to reapply to the program each year.
- Hold school districts that fail to publicly report their available capacity accountable.¹⁵⁶

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

¹⁵⁶ 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 3 August 2022).

OREGON

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.¹⁵⁷

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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

¹⁵⁷ 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 4 August 2022); 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=oFVdECCrQwTmveSDYbretX7qm8imra56QjvdkmnH7XxVVqmkkQJz1327936764?ruleVrsnRsn=144548 (accessed 3 August, 2022).

PENNSYLVANIA

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.¹⁵⁸ 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.¹⁵⁹

While the state lacks important transparency reporting, it does not allow school districts to charge tuition to cross-district transfer students' families.

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

¹⁵⁸ 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 4 August 2022); 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 4 August 2022).

¹⁵⁹ 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> (4 August 2022).

RHODE ISLAND

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.¹⁶⁰



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

¹⁶⁰ R.I. Gen. Laws § 16-2-19, <http://webserver.rilin.state.ri.us/Statutes/TITLE16/16-2/16-2-19.htm> (accessed 4 August 2022); R.I. Gen. Laws § 16-21.1-1, <http://webserver.rilin.state.ri.us/Statutes/TITLE16/16-21.1/16-21.1-1.htm> (4 August 2022); R.I. Gen. Laws § 16-21.1-3, <http://webserver.rilin.state.ri.us/Statutes/TITLE16/16-21.1/16-21.1-3.htm> (4 August 2022).

SOUTH CAROLINA

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.¹⁶¹ 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.¹⁶² While district denials of student transfer applications can be overridden by a county board of education if they believe the denial was performed "unreasonably or capriciously," this kind of override requires a formal hearing.¹⁶³ 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.¹⁶⁴

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.

¹⁶¹ 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 4 August 2022).

¹⁶² 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 4 August 2022).

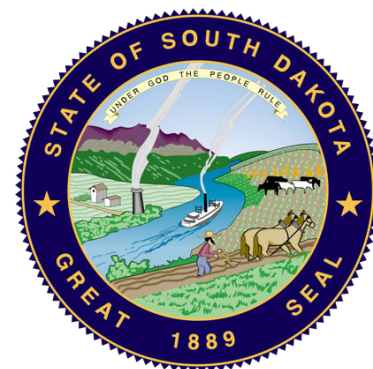
¹⁶³ South Carolina Code of Laws Unannotated Title 59 Education §59-63-217. Barring enrollment of student; grounds; notice and hearing; duration of bar, <https://www.scstatehouse.gov/code/t59c063.php> (accessed 4 August 2022).

¹⁶⁴ 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 4 August 2022).

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

SOUTH DAKOTA

South Dakota can easily strengthen its cross-district and within-district open enrollment policies.



South Dakota permits cross-district and within-district transfers so long as they do not result in school “injury” or overcrowding.¹⁶⁵ 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.¹⁶⁶ Transfer applicants must apply to the Department of Education and the school board of the receiving district must approve or reject the application, notifying 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.¹⁶⁷ 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.¹⁶⁸ Moreover, transfer students are not entitled to a free education and could be charged tuition.¹⁶⁹

¹⁶⁵ South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-21. Admission of nonresident students, https://sdlegislature.gov/Statutes/Codified_Laws/2042056 (accessed 4 August 2022); South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-40. Enrollment options program established, https://sdlegislature.gov/Statutes/Codified_Laws/2042077 (accessed 4 August 2022).

¹⁶⁶ 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 4 August 2022).

¹⁶⁷ 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 4 August 2022).

¹⁶⁸ South Dakota Legislature: Legislative Research Council, Codified Laws, 13-28-47. Disclosure, https://sdlegislature.gov/Statutes/Codified_Laws/2042086 (accessed 4 August 2022).

¹⁶⁹ 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 4 August 2022).

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

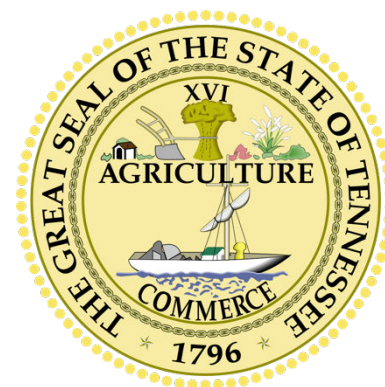
- Require districts to post all open enrollment policies and procedures on their websites.
- Require districts to post their available capacity online.
- Require the SEA to collect and publish the reasons transfer applicants were rejected.

Best Policy	Current Policy
Mandatory Cross-District Open Enrollment	X*
Mandatory Within-District Open Enrollment	X*
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

*The asterisk signifies that the state just misses having good policy by not requiring districts to post their open enrollment policies and procedures on their websites.

TENNESSEE

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.¹⁷⁰ 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 mandatory within-district open enrollment. Local boards of education must review all within-district transfer applications before considering any cross-district transfer applications. Local boards of education 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.¹⁷¹

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 pertinent 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.

¹⁷⁰ 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 2 September 2022).

¹⁷¹ Tenn. Code Ann. § 49-2-128, <https://bit.ly/3qcqyQY> (accessed 2 September 2022).

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

TEXAS

Texas just misses having rigorous transparency reporting.



The Lone Star State does not require mandatory cross-district open enrollment. Transfers occur upon the approval of the student’s parents and the receiving school district. At the same time, Texas boasts a robust transparency system.¹⁷²

Voluntary within-district transfers are at the discretion of the school district.¹⁷³ 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.¹⁷⁴ Based on the evidence, the school district decides to accept or reject the transfer students’ petitions.¹⁷⁵

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.¹⁷⁶

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

¹⁷² Texas Education Agency, “Enrollment Trends,” <https://tea.texas.gov/reports-and-data/school-performance/accountability-research/enrollment-trends> (accessed 3 August 2022); Texas Constitution and Statutes, Education Code, Title 2, Chapter 25, Subchapter B, §25.0031-§25.0038, <https://statutes.capitol.texas.gov/?link=ED> (accessed 4 August 2022); 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 4 August 2022).

¹⁷³ Texas Constitution and Statutes, Education Code, Title 2, Chapter 25.032, https://texas.public.law/statutes/tex._educ._code_section_25.032 (accessed 30 September, 2022).

¹⁷⁴ Texas Constitution and Statutes, Education Code, Title 2, Chapter 25.033, https://texas.public.law/statutes/tex._educ._code_section_25.033 (accessed 30 September, 2022).

¹⁷⁵ Texas Constitution and Statutes, Education Code, Title 2, Chapter 25.034, https://texas.public.law/statutes/tex._educ._code_section_25.034 (accessed 30 September, 2022).

¹⁷⁶ 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 4 August 2022).

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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

UTAH

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.¹⁷⁷

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.

¹⁷⁷ 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 4 August 2022).

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

VERMONT

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



The state requires all high schools to participate in mandatory 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 1 each year, the state code does not require that districts post their available capacity online.¹⁷⁸

Vermont policymakers 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.

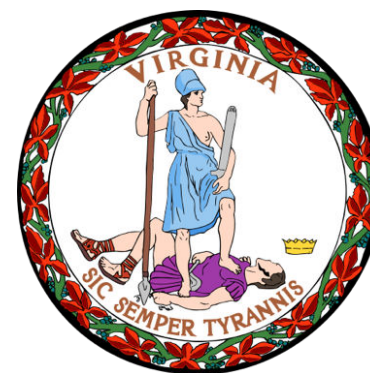
Best Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	✓

¹⁷⁸ Vermont Statutes Online, 16 V.S.A. § 821, 822a, 1222, <https://legislature.vermont.gov/statutes/title/16> (4 August 2022).

VIRGINIA

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 website. 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.¹⁷⁹



The state code does not prevent districts from charging transfer students tuition. Nor does the code require them to post their available capacity online.¹⁸⁰

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 Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

¹⁷⁹ 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/> (4 August 2022).

¹⁸⁰ 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 4 August 2022).

WASHINGTON

Washington meets none of Reason's best practices policy goals.



Washington State permits 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.¹⁸¹ Students seeking to transfer schools, but who do not qualify under the code's exceptions, can be charged tuition.¹⁸²

All school districts are required to participate in mandatory within-district open enrollment.¹⁸³ However, school districts are not required to publicly post their within-district open enrollment option. In fact, districts are only required to provide their within-district transfer policies to non-residents upon request.¹⁸⁴ Districts must prioritize transfer applications for students who are children of the full-time teaching staff. Within-district transfer students cannot be charged tuition.¹⁸⁵

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.

¹⁸¹ RCW 28A.225.225, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.225> (accessed 4 August 2022).

¹⁸² RCW 28A.225.220, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.220> (accessed 4 August 2022).

¹⁸³ RCW 28A.225.270, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.270> (accessed 4 August 2022).

¹⁸⁴ 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 4 August 2022).

¹⁸⁵ RCW 28A.225.210, <https://app.leg.wa.gov/RCW/default.aspx?cite=28A.225.210> (accessed 4 August 2022).

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 districts to post their policies and procedures for within-district open enrollment online.
- Require districts to post their available capacity online.

Best Policy	Current Policy
Mandatory Cross-District Open Enrollment	X
Mandatory Within-District Open Enrollment	X*
Transparent Reporting by the State Education Agency (SEA)	X
Transparent School Capacity Reporting	X
Children Have Free Access to All Public Schools	X

*The asterisk signifies that the state just misses having good policy by not requiring districts to post their open enrollment policies and procedures on their websites.

WEST VIRGINIA

West Virginia does not meet most of Reason's best practices policy goals.



West Virginia permits voluntary cross-district and within-district open enrollment, but does not require districts to post their policies or procedures on their websites. Participating districts can only reject applicants for limited reasons, such as insufficient grade level capacity or failure to complete the transfer application correctly. School districts cannot charge tuition to cross-district transfer students and cannot require transfer applicants to obtain permission from the county board of their assigned district to transfer. The receiving district can prioritize applications from applicants whose siblings are already enrolled through open enrollment; high school juniors and seniors whose families relocate to another school district, but wish to complete their high school education in their former home district; the children, legal wards, or grandchildren of school employees; and applicants who reside outside the school district, but would have a shorter, less dangerous, or less taxing commute to the receiving district. Districts cannot prioritize applicants from private or parochial schools.¹⁸⁶

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

- Require mandatory within-district open enrollment, posting policies and procedures online.
- Require mandatory cross-district open enrollment, posting policies, and procedures online.
- Require districts to publish application denials and the explanation of denials. The Department of Education should publish this information annually.

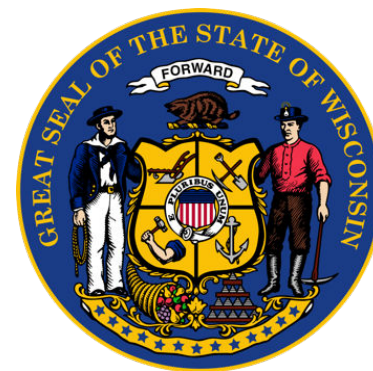
¹⁸⁶ West Virginia Code, 18-5-16, Student transfers; definitions; appeals; calculating net enrollment; fees for transfer, <https://code.wvlegislature.gov/18-5-16/> (accessed 4 August 2022).

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

WISCONSIN

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

All districts are required to participate in Wisconsin's mandatory cross-district open enrollment option so long as they have available capacity. Districts must post their cross-district open enrollment options on their website. When a school or program is oversubscribed, students are selected through a randomized lottery. However, non-resident students already enrolled 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.¹⁸⁷



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.¹⁸⁸ 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.

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

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

¹⁸⁷ Wisconsin State Legislature, 118.51, <https://docs.legis.wisconsin.gov/statutes/statutes/118/51> (accessed 4 August 2022); Wisconsin State Legislature, 118.57, <https://docs.legis.wisconsin.gov/statutes/statutes/118/57> (accessed 4 August 2022); Wisconsin Department of Instruction, Public School Open Enrollment, www.dpi.wi.gov/open-enrollment (accessed 3 August 2022).

¹⁸⁸ Wisconsin Department of Public Instruction, Open Enrollment Data and Reports, www.dpi.wi.gov/open-enrollment/data (accessed 3 August 2022).

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

WYOMING

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.¹⁸⁹ The state code also permits voluntary within-district open enrollment, but participation is at the discretion of each district.¹⁹⁰

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.

¹⁸⁹ 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 4 August 2022).

¹⁹⁰ 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 4 August 2022).

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

PART 6

CONCLUSION

Residential assignment is an outdated method of school assignment that negatively impacts the education options available to many families. Open enrollment weakens the relationship between schooling and housing, undoing the lingering effects of past discriminatory policies and providing families more choice that isn't limited by property wealth. Open enrollment also gives families decision-making power in education, creating a robust education marketplace that can spur schools to strive for excellence.

“

... policymakers should be mindful to buttress open enrollment with policies that provide families with important information about school districts' open enrollment practices so that they can make informed decisions.

”

Policymakers in states with weak or no open enrollment laws should look to adopt mandatory cross-district and within-district open enrollment policies. However, this reform alone is insufficient to ensure that all families have equal access to various public education options. Accordingly, policymakers should be mindful to buttress open enrollment with policies that provide families with important information about school districts' open enrollment practices so that they can make informed decisions. At the same

time, states should prevent districts from imposing restrictive open enrollment barriers, such as charging families tuition. Moreover, open enrollment policies should be refined so that states establish comprehensive and precise definitions of school capacity. Other key policies such as flexible transportation options and portable funding reinforce open enrollment policies, making them more student-centered. Working in conjunction, these policies form the core tenets of good open enrollment policies that are accessible to the most families.

In addition to greater transparency, state policymakers can implement other reforms that foster open enrollment. For instance, new schools built or remodeled using state funds should not be incorporated into the existing system of residential assignment. Instead, admission to new or remodeled schools should be determined by a randomized lottery, wholly eliminating residential assignment from admissions.¹⁹¹

This study aims to capture the basic policy framework of good open enrollment policy, but more can be done to ensure students have access to a school that fits their needs, such as randomized audits of school district practices, more frequent capacity checks, or making admissions for transfers available year round. Some states have already incorporated policies of this sort into their current code.

This ranking's scope is limited to the best practices necessary to establish good open enrollment laws. However, there are other important policies—such as transportation and funding portability—not measured here that are crucial to effective open enrollment laws that serve all children.

6.1

TRANSPORTATION

While some states have robust open enrollment policies, true choice is only effective if students, regardless of where they live, can get to their preferred schools. Accordingly, policymakers should buttress open enrollment laws with flexible transportation options. This analysis would be remiss to not address the important role transportation plays in building good open enrollment policy.

¹⁹¹ Patricia Leveque, “Four New Policies to Eliminate School Boundaries,” ExcelinED, May 17, 2022, www.excelined.org/2022/05/17/four-new-policies-to-eliminate-school-boundaries/ (accessed 3 August 2022).



Ideally, school districts should coordinate to provide transfer students with transportation or make education funds easily accessible to families to pay for more individualized transportation options, such as vans or ride-sharing.



Ideally, school districts should coordinate to provide transfer students with transportation or make education funds easily accessible to families to pay for more individualized transportation options, such as vans or ride-sharing. At the very least, school districts should not prohibit other school districts from transporting transfer students across district boundaries.

More than half of states already meet this low policy bar since their education codes simply do not address transportation options for cross-district transfers. However, about 47% of states explicitly prohibit school districts transporting students across district lines, except in special circumstances, such as students with special disabilities. For example, Colorado state law permits districts to restrict school buses from other districts to cross district boundaries to pick up transfer students. To circumvent this barrier, families transport their children to designated pick up locations just over the district boundary where a local school bus picks them up.¹⁹² While this method helps some children, it is still a huge barrier for families who lack the means to transport their children to the designated pick up location. In fact, Ready Colorado’s Luke Ragland and Craig Hulse noted that “150 students suddenly lost their school transportation because their home school board voted to prohibit outside buses, even though the neighboring district was paying for the students’ transportation.”¹⁹³

Colorado should revise its transportation policy so school buses are not restricted from crossing district boundaries. The state’s restrictive policy is a major impediment to students from low-income families since parents have to transport students across district boundaries to utilize the receiving district’s transportation services. As Ragland and Hulse wrote, “Time spent driving students to school can conflict with work schedules for parents,

¹⁹² Ragland and Hulse, “Open Doors, Open Districts.”

¹⁹³ Ibid.

and public transit options can be scarce in many areas, making open enrollment functionally impossible for families without a transportation solution.”¹⁹⁴

Oftentimes, school districts do not provide transportation to transfer students, leaving families to their own devices. Inadequate transportation can adversely impact a state’s open enrollment policy. For instance, Deven Carlson hypothesizes that the lack of transportation options for Ohio’s cross-district transfer students is a major barrier for low-income families. “Left on their own, low-income children are sure to have more difficulty securing reliable transportation. Indeed, this factor alone might explain a few idiosyncratic districts in which more advantaged students appear to disproportionately use open enrollment,” he wrote.¹⁹⁵ Policymakers should embrace solutions to an increasingly mobile student population and eliminate barriers to student transportation.



Policymakers should embrace solutions to an increasingly mobile student population and eliminate barriers to student transportation.



Likewise, policymakers should be wary of open enrollment proposals or laws that restrict transportation options for transfer students. As policymakers pursue innovative transportation reforms, they should review proposals in Ohio and Colorado that encourage school sectors to work together to facilitate transportation options for students.¹⁹⁶

One policy solution would be an education savings account (ESA) for open enrollment students, which would give families complete control of their children’s public education dollars. These accounts would pay for approved education expenses, such as school transportation, tuition at any public school, tutoring, or school supplies. School districts would be permitted to set transfer tuition up to the established per-pupil amount and to

¹⁹⁴ Ragland and Hulse, “Open Doors, Open Districts.”

¹⁹⁵ Carlson, “Open Enrollment and Student Diversity in Ohio’s Schools.”

¹⁹⁶ Christian Barnard, “With School Choice Spreading, It’s Time to Fix School Funding, Too,” *National Review*, February 24, 2022, www.nationalreview.com/2022/02/with-school-choice-spreading-its-time-to-fix-school-funding-too/ (accessed 3 August 2022); Arizona’s proposal was signed into law on June 13, 2022; Michael Q. McShane and Michael Shaw, “Transporting School Choice Students,” *EdChoice*, March 2020, www.edchoice.org/wp-content/uploads/2020/03/Transporting-School-Choice-Students-by-Michael-Q-McShane-and-Michael-Shaw.pdf (accessed 3 August 2022).

use any saved or excess dollars for other approved education expenses. ESAs would make education funds student-centered, instead of institution-centered.

States could also establish a per-pupil transportation amount to reimburse families. For instance, Wisconsin reimburses low-income families \$1,218.54 in mileage expenses with payments prorated if claims exceed available funds.¹⁹⁷

At the very least, policymakers should consider proposals that require school districts to publicly provide information on their websites about transportation options for open enrollment transfer students. For instance, a Florida proposal, passing the state House chamber, would have required school districts to provide transfer students information concerning available transportation options:

- The responsibility of school districts to provide transportation to another public school;
- The availability of funds for transportation;
- Any other transportation the school district may provide;
- And any transportation options available in the community.¹⁹⁸

While these policies would not solve all of the transportation difficulties many families encounter when using open enrollment, they would, at the very least, force school districts to be transparent with applicants about available transportation options. States can certainly do more to improve the transportation options so families are less constrained by their place of residence. Currently, 26 states don't prohibit school districts from transporting students across district boundaries. While this means that nearly three quarters of states have taken a step in the right direction, it also means that 23 states have extremely restrictive laws that do not clearly permit school districts to transport transfer students across district boundaries.

¹⁹⁷ Wis. Stat. § 118-51. See also "Open Enrollment Transportation and Transportation Reimbursement," Wisconsin Department of Public Instruction, www.dpi.wi.gov/open-enrollment/applications/transportation (accessed 4 August 2022).

¹⁹⁸ Florida State Senate, CS/HB 5101: Education, <https://www.flsenate.gov/Session/Bill/2022/5101#:~:text=CS%2FHB%205101%3A%20Education&text=Education%3B%20Revises%20provisions%20relating%20to,%2C%20virtual%20instruction%20programs%20%26%20FEFP> (accessed 4 August 2022).

6.2

PORTABLE FUNDING

Portable student funding makes education dollars student-centered, prioritizing students' needs regardless of where they live.¹⁹⁹ A student's funding is based on their individual needs, and follows them to whichever school they attend. Policymakers would be remiss to not address the importance of portable student funding. In most states, a significant part of education dollars is raised at the local level and does not follow transfer students to their new school district. Without full student funding, many school districts have weak financial incentives to participate in open enrollment. Accordingly, making education dollars portable so that they follow students to their new public school is essential to incentivizing participation and building a robust open enrollment program. For instance, Wisconsin's open enrollment program likely owes its success to the state's education funding mechanism, which makes students' funding follow them to their new school district.²⁰⁰

¹⁹⁹ Aaron Garth Smith, "Frequently asked questions on student centered funding," Reason Foundation, FAQ, August 1, 2022, <https://reason.org/faq/frequently-asked-questions-on-student-centered-funding/> (accessed 1 September 2022).

²⁰⁰ Smith, "Wisconsin's open enrollment policy success is a model for states looking to increase educational opportunities."

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