

# NEW MEXICO PUBLIC EDUCATION DEPARTMENT

July 18, 2008

## PUBLIC SCHOOL CHOICE: TECHNICAL ASSISTANCE

Under NMSA Chapter 22 and Title I of the No Child Left Behind Act (NCLB), the option of school choice must be made available for all New Mexico students attending a school with an NCLB designation.

This document serves as technical assistance regarding implementation of Public School Choice associated with the school improvement process. The information is provided in two sections so that the context of providing Public School Choice is clear for Title I schools versus non-Title I schools.

**1. Q - What is Public School Choice?**

A - Public School Choice is the option for a student to attend another public school within the district that is outside the student's school attendance area.

### **Title I Schools:**

**2. Q - Under the No Child Left Behind Act, who qualifies for transfer under Public School Choice?**

A - All students enrolled in any Title I school identified under NCLB as in School Improvement, Corrective Action, or Restructuring qualify for a transfer under Public School Choice. A school district must provide all students in the school the option to transfer to another public school in the district, including charter schools, that is not in school improvement.

**3. Q - Which students have priority for public school choice?**

A - A school district must give priority to the lowest-achieving students from low-income families if sufficient resources are not available to accommodate all requests for choice.

**4. Q - Is to-and-from public school transportation required for those students who have requested the option to transfer to another school in the district that is not in school improvement?**

A - Yes, a school district must provide, or pay for all or a portion of the cost of transportation to the receiving school up to the limits determined by NCLB. The district may set a maximum daily amount paid for transportation provided by the district or the parents.

5. **Q - If a school is identified for school improvement after the beginning of the school year, must they provide the school choice and transportation option?**
- A - Yes. If the school is identified for improvement after the start of the school year, the provision of school choice and transportation still apply.
6. **Q - Can Title I funds be used for to-and-from public school transportation?**
- A - Yes. The school district must utilize Title I funds in an amount equal to 20% of their Title I Part A award to meet all demand for Public School Choice and Supplemental Educational Services. If a lesser amount than what was set aside is needed, the district may re-budget the funds in the current year.
7. **Q - Can state funds be used to cover the additional cost for Public School Choice?**
- A - Yes, state funds can be used for the additional costs of Public School Choice. The district is obligated to continue financial support as long as the home school is in School Improvement. Any use of federal funds in the future would have to supplement (not supplant) state funding.
8. **Q - What costs for transportation may be charged to Title I?**
- A - Only the supplemental (additional) costs necessary to provide to-and-from transportation can be charged to the Title I award.
9. **Q - How long will transportation have to be provided to students under public school choice?**
- A - To-and-from school transportation shall be provided until the student's resident school is no longer identified for school improvement or if the receiving school is placed on school improvement. However, a student may continue to attend the receiving school until he or she has completed the last grade in the school.
10. **Q - Can Title I allocations that are set aside for transportation be used to purchase school buses?**
- A - Yes, provided that the school district justifies the need and approval is granted by the State Director of Title I and State Director of Transportation.

**11. Q - If a school bus is approved for purchase from the Title I allocation, can the school district utilize the school bus for other services to the school district?**

A - Yes, however the services will be limited to other Federal Programs within the school district.

**12. Q - Can school districts use any form of transportation to meet the intent of Public School Choice?**

A - No, school districts are subject to State and Federal standards, therefore only school buses and/or a parent reimbursement can be established for transportation.

**13. Q - Does the district have to offer School Choice options to sites which have no capacity?**

A - Districts may not use lack of capacity to deny students the option to transfer but may consider capacity when deciding which choices to make available. Health and safety of students can be considered.

**14. Q – How must school districts with no choice available address the school choice requirements?**

A - School districts might not have choice available either because the district has only a single school per grade span or because all schools for a given grade span have been identified for school improvement. Those school districts must, to the extent practicable, enter into cooperative agreements with other school districts in the area (or with charter or “virtual schools”).

There may be situations in which choice is not practicable. The distance to another school with the appropriate grade span, for example, may be excessive. School districts must, however, make good faith efforts to determine whether such choice is practicable. Factors considered should include travel distance, existing transportation boundary agreements, available grade spans, and other appropriate factors.

## **Non-Title I Schools:**

### **1. Q –Is a school district required to provide school choice options to parents of children in non-Title I schools?**

- A - Chapter 22-1-4 New Mexico Statutes Annotated requires specific priorities regarding open enrollment. Priorities for enrollment of students are as follows:
- (a) first, students residing within the school district and within the attendance area of a public school;
  - (b) second, students enrolled in a school ranked as a school that needs improvement or a school subject to corrective action;
  - (c) third, students who previously attended the public school; and
  - (d) fourth, all other applicants.

In adopting and promulgating rules governing enrollment and re-enrollment at public schools other than charter schools within the district, a local board may establish additional enrollment preferences for rules admitting students in accordance with third and fourth priorities of enrollment. The additional enrollment preferences may include:

- 1. after-school child care for students;
- 2. child care for siblings of students attending the public school;
- 3. children of employees employed at the public school;
- 4. extreme hardship;
- 5. location of a student's previous school;
- 6. siblings of students already attending the public school; and
- 7. student safety.

For non-Title I schools, notice provided to parents must incorporate the open enrollment provision that students from schools identified for improvement are considered to have higher priority when considering transfer requests. If funding from non-federal (state or local sources) is not available, parents should also be notified that funding of transportation is not possible. Districts must maintain appropriate documentation of the unavailability of funding to support school-choice related transportation.