

Not Very Open

Colorado's Public School Open Enrollment Policies

**By Pamela Benigno
Director, Education Policy Center**

**Issue Paper
Number 10-2000
November, 2000**

Colorado Public School Open Enrollment Policies: Not Very Open

*By Pamela Benigno
Director of the Parent Information Center*

Executive Summary

The Colorado Public Schools of Choice Act provides for intra-district and inter-district student enrollment. Many school districts, through school board policy, are discouraging parents from exercising their right of public school choice. Clarifying the statute to protect parents from restrictive regulations is needed.

As the result of a survey of Denver Metro school board policies and from conversations with employees of several school districts the following changes are suggested:

- Once open enrolled in a school, resident or nonresident students should be guaranteed enrollment for all the grades the school serves.
- Open enrollment application timetables should be consistent throughout the state.
- Districts should be required to accept open enrollment applications throughout the school year. A deadline for the first round of selection should be no earlier than February 15.
- Students who open enroll in a school outside their attendance area should be guaranteed enrollment in their neighborhood school, if they choose to return.
- Parents should be permitted to file an open enrollment application with an unlimited number of schools.
- Districts should be required to notify all parents of the district's open enrollment policies and procedures as well as provide a list of optional schools and programs available in the district.

School Shopping

School shopping has taken on a new meaning. It no longer only refers to shopping for school supplies or new clothes to wear to school, but parents are now shopping for the school they feel will provide their child with the best education. The Colorado Public Schools of Choice Act of 1990¹ provides for school shopping, but many school district policies discourage parents from becoming satisfied customers.

Open Enrollment Will Skyrocket

The Parent Information Center Report Card², created by the Independence Institute, has enabled parents to comparatively shop for schools since 1995. The new state report card will be released in the summer

¹ § 22-36-101, C.R.S.

² <http://www.ParentInfoCenter.org>

of 2001. This highly publicized report card will alert parents of the condition of education in Colorado and the number of parents school shopping will skyrocket. Besides shopping among neighborhood schools, more charter schools as well as other choice programs are opening every year. Parents have a greater opportunity to choose a public school outside their neighborhood than ever before. This opportunity is a new frontier. Many parents are experiencing trials and tribulations that pioneers often endure. District open enrollment policies are the cause of much of the frustration parents are experiencing.

It is time to evaluate school district open enrollment policies and procedures, and the statute that provides for open enrollment in Colorado. Some district policies seem to have been written for the district's convenience and not in the best interest of the children they are paid to serve. These policies simply are not "Parent-Friendly."

Colorado Public Schools of Choice Act

Every public school district in Colorado must allow for open enrollment. Resident students and nonresident students from other districts may apply to enroll in any school or program in the state, tuition free. According to the Colorado Public Schools of Choice Act there are only five reasons a school district can deny a student enrollment in a school outside the boundaries of his home school.³

1. There is a lack of space or teaching staff.
2. The school does not offer a special program or the necessary facilities to meet the student's needs.
3. The student does not meet the established criteria for a particular program.
4. A desegregation plan is in effect and the denial is necessary for compliance with the desegregation plan.
5. The student has been expelled or is in the process of being expelled from another district or the student may be denied permission to enroll under circumstances that would allow for expulsion.

District Policies

The statute allows for each district to adopt its own open enrollment policies and procedures. A brief survey of district policies among some of the Denver Metro districts and conversations with district staff revealed that the policies vary considerably between districts. This inconsistency is confusing and often intimidating to parents. It is questionable if all policies are compliant with Colorado law. Some school districts are implementing rigid open enrollment regulations and are squelching parents' freedom to choose the best school for their child.

Inter-district Open Enrollment

Open enrolling in a school located in a district other than a student's place of residency, inter-district enrollment, may be a risky step to take. Once enrolled in a school, non-residents may or may not have to reapply every year. For example: Not an uncommon requirement, Littleton Public School District

³ § 22-36-101 (3) (a), (3) (b), (3) (c), (3) (d), (3) (e), C.R.S.

requires that a nonresident parent fill out an open enrollment application every year.⁴ This year will be the first year of a partnership with Douglas County School District. Douglas County cannot keep up with the growth and Littleton has empty desks. Littleton will be sending their buses into parts of Douglas County. Fifty-five students are participating in the partnership. The families were not fond of the idea that their yearly application could be denied. The district has waived the yearly application requirement for students participating in the partnership.⁵

Boulder Valley Public Schools does not require out of district students to apply every year. Once a student has been accepted they may stay in the school for all the grades it serves.⁶

Provided for by statute, districts have set their own timelines for open enrollment applications and acceptance. The open enrollment periods vary in length as well as the time of year applications are accepted. Boulder Valley Public School District has narrowed their open enrollment period to three-and-a-half weeks.⁷ Adams County District 12 allows parents to apply for open enrollment from the first day of school through June 15 of each year. Priority consideration is given to those applications received on or before February 15.⁸ Under the current statute a district could reduce the open enrollment period to one day, though the statute does require policies and procedures to be reasonable. Some parents in Boulder Valley consider three weeks unreasonable. The Adams County District 12 policy keeps the options open for parents who may decide at a later date, for various reasons, that they would like to enroll their child in a different school. Parents moving into a new school district or desiring to open enroll their child into another district other than their own, could easily be confused about district timelines and miss the opportunity to apply for open enrollment in the school of their choice.

Parent-Friendly Changes in Policy:

- **Once open enrolled in a school, resident or nonresident students should be guaranteed yearly enrollment for all the grades the school serves.**
- **Open enrollment application periods and deadlines should be consistent throughout the state.**
- **Districts should be required to accept open enrollment applications throughout the school year. A deadline for the first round of selection should be no earlier than February 15.**

Intra-district Open Enrollment

Parents who want their child to remain in their resident district, but would like their child to attend a school other than the school within their attendance area or intra-district choice, may have several restrictions to deal with depending on the district. Douglas County Public Schools requires any student

⁴ Littleton Public School District Board Policy Code: JFBB, <http://www.lps.k12.co.us/Policies/docs/JFBB.HTM>

⁵ Phone conversation with Littleton Public School District's Assistant Superintendent of Learning Services, August 2000.

⁶ Boulder Valley School District Board Policy File: JECC, <http://www.bvvsd.k12.co.us/sb/policies/JECC.htm>

⁷ Boulder Valley School District Open Enrollment Procedures and Information, 2000/2001 school year.

⁸ Adams County School District 12 Administrative Procedure Code:5117.5.

who has open enrolled to submit a yearly application, and approval is based on space available.⁹ If a resident student of Jefferson County School District,¹⁰ Boulder Valley School District,¹¹ Cherry Creek School District,¹² or Denver Public School District¹³ enrolls in a school other than his neighborhood school, that school becomes the student's home school. In these districts that means if the parent decides to send his child back to his neighborhood school the parent must fill out another open enrollment application and the principal must accept the student before he can return to the school. If space is not available the application can be denied. Littleton Public School District makes an exception for charter schools. A student attending a charter school who wants to return to the neighborhood school simply has to register.¹⁴

The possibility of losing a student's space in the neighborhood school has been shown to be a deterrent for parents to exercise choice, especially in the case of choosing a charter school. A new charter school in the Boulder Valley School District is a good example. Because the school experienced delays in locating a facility, several parents backed out of enrolling their students in the school. The parents had been notified that if they enrolled in a charter school and then wanted to return to their neighborhood school, there might not be space available. Parents, unsure of where the school might be located and afraid of losing their space in the neighborhood school, disenrolled in the charter school. Contrast that with a resident student enrolled in a private school who can simply register in his neighborhood school without the fear of denial.¹⁵

Jefferson County School District has several charter and alternative schools that serve students in kindergarten through twelfth grade or other grade level configurations varying from the traditional grade levels. A little known fact is that the school the student is enrolled in becomes the student's home school for all the grades served in that school. The following is a likely scenario: A parent wants his child to attend a kindergarten through twelfth grade choice school only up through the eighth grade and then attend the neighborhood high school. The parent will have to fill out an open enrollment application and then the student will have to be accepted before he can enroll in his neighborhood high school. A resident student attending a private school, a resident student being educated at home, or a student who recently moved into the neighborhood, simply has to register to attend his neighborhood school.¹⁶

Parent-Friendly Change in Policy:

- **Students who open enroll in a school outside their attendance area should be guaranteed enrollment into their neighborhood school, if they choose to return.**

Parents Limited to How Many Applications They Can File

⁹ Douglas County School District Regulations File: JCA/JFB-R, <http://www.dcsd.k12.co.us/district/boe/boepolicies/jca-jfb-r.html>

¹⁰ Jefferson County Public School District Board Regulations File: JFBA-R.

¹¹ Boulder Valley School District Board Regulations File: JECC-R.

¹² Cherry Creek School District Board Regulations File: JFBA-R.

¹³ Phone conversation with a staff member from the Denver Public Schools Planning Office, November 20, 2000.

¹⁴ Phone conversation with Littleton Public School District's Assistant Superintendent of Learning Services, November 20, 2000.

¹⁵ Confidential conversations with parents.

¹⁶ Jefferson County Public School District Board Policy File: JFBA, <http://204.98.1.2/board/policies/jfba.html>

Scenario confirmed with Jefferson County Public School District area superintendent, August 2000.

Some districts have limits on the number of schools at which a parent can file an open enrollment application. Jefferson County only allows one, except for the charter schools where there is no limit.¹⁷ Denver Public Schools will allow two school choices on one application.¹⁸ Cherry Creek School District does not have a limit.¹⁹ Restricting the number of applications a parent can file is a good example of an excessive amount of control. Open enrollment is a wonderful opportunity, but the fact is the schools that are most in demand have few openings. Lottery systems or waiting lists determine which students will fill the openings. Only a limited number of parents receive their first choice.

Parent-Friendly Change in Policy:

- **Parents should be permitted to file an open enrollment application with an unlimited number of schools.**

Notification of the Open Enrollment Opportunity

Parents need to be notified that they have the option of open enrolling their children in a school other than the school in their attendance area or a school in another district. They also need to be informed about the various optional programs available in a school district. Open enrollment policies and procedures should be included in the notification. Many parents are unaware of the options available. For years there has been much discussion about why minority and lower income families have not taken advantage of the opportunity to open enroll their children in another school besides their neighborhood school. Some say transportation is an issue. That may be true, but a larger factor may be that the parents are unaware of their options. Parents who do not have school age children are the most difficult group to notify. Possibly the news media, preschools, and hospitals could be encouraged to help educate families of their open enrollment opportunities.

Parent-Friendly Change in Policy:

- **Districts should be required to notify all parents of the district's open enrollment policies and procedures as well as provide a list of optional schools and programs available in the district.**

Against the Law?

Many of the district policies reviewed were not as specific in procedures as others and therefore were not used in the examples above. All policies listed the legal reasons for denial of an open enrollment application. Littleton Public Schools added a reason for denial that goes beyond the limited reasons stated in Colorado law. The district's policy states that a request for open enrollment can be denied if, "The school in which the student is currently enrolled or school the student is scheduled to be enrolled in next year is at minimum enrollment to ensure continuance of some important instructional programs, or at which cost efficient use of facilities would no longer be possible."²⁰

¹⁷ Phone conversation with Jefferson County Public School District area superintendent, August 2000.

¹⁸ Denver Public Schools Pupil Assignment Procedures JC-R.

¹⁹ Phone conversation with Cherry Creek Public School District staff, November 21, 2000.

²⁰ Littleton Public School District Policy Code: JFBA.

The district claims they have never denied a student enrollment into a school based on this provision. In response to questioning the legality of this policy, a letter from the school district's legal counsel stated the following: "In conclusion, section 101(2)(a) of the Act requires school districts to adopt policies and procedures which are 'reasonable and necessary to implement' the Act. Section (2)(b) also provides that a school district shall not be required to 'make alterations to the arrangement or function of rooms within a requested school.' The provision of the policy JFBE under discussion would seem to be a 'reasonable and necessary' policy implementation of the Act designed to achieve a balance of student population within the schools which would accordingly avoid 'alterations' in LPS schools and programs."²¹

The statute states that the school district shall not be required to "make alterations in the structure of a *requested* school or to make alterations to the arrangement or function of rooms within a *requested* school."²² The statute is very clear. The district is not required to make physical changes to a school building or classrooms to meet the special needs of a student requesting open enrollment into the school. The LPS denial policy prevents a student from leaving a school or program and has no plausible basis in Colorado law.

CDE Study Not Continued

The Public Schools of Choice Act mandates that the Colorado Department of Education study and evaluate the enrollment options throughout the public school system in Colorado. The department was to report to the house and senate education committees in January of 1992 and each January thereafter.²³ A report was published in 1992,²⁴ but in violation of the statute none have been published since.²⁵ The department has collected the number of students enrolling in districts outside of their own resident school district. In the fall of 1998, 17,414.50 students were nonresidents, and in the fall of 1999, 19,004.50 students were nonresidents.²⁶

Conclusion

School districts should have some leeway in establishing open enrollment policies and procedures. Waiting lists, lotteries, preferences for selection, and whether the process is centralized in the district office or processed by each individual school, are all local level decisions.

Colorado school districts are over-regulating open enrollment. At the present time many parents are discouraged by the restraints in the current system. In the Denver Metro area many working parents would be better served if their child attended school near the parent's workplace. Other parents are dissatisfied with the school in their attendance area or would prefer a school with a specialized focus or philosophy.

Tightening the reins on school district policies may require changes in legislation. The possibility of a statewide timetable for open enrollment applications should be considered. If feasible, the current

²¹ Letter to Pamela Benigno from Littleton Public School District's legal counsel, October 19, 2000.

²² § 22-36-101 (2) (b) (?), C.R.S.

²³ § 22-36-106 (2) (b), C.R.S.

²⁴ Report to the General Assembly from the Colorado Department of Education, January 21, 1992.

²⁵ Phone conversation with staff from the Research and Evaluation Department at the Colorado Department of Education, August 22, 2000.

²⁶ Provided by Colorado Department of Education August 22, 2000.

statute allowing districts to set their own timelines will need to be amended. The Colorado Public Schools of Choice Act should be clarified to provide for the following:

1. Once open enrolled in a school, resident or nonresident students should be guaranteed enrollment for all the grades the school serves.
2. Students who open enroll in a school outside their attendance area should be guaranteed enrollment into their neighborhood school if they choose to return.
3. Districts should be required to accept open enrollment applications throughout the school year. A deadline for the first round of selection should be no earlier than February 15.
4. Parents should be permitted to file an open enrollment application with an unlimited number of schools.
5. Districts should be required to notify all parents of the district's open enrollment policies and procedures as well as provide a list of optional schools and programs available in the district.

Open enrollment allows parents to assume the responsibility of choosing a school for their children. Research shows that when parents choose a school they are more likely to be satisfied with the school and involved in their children's education.²⁷ They become partners in education. Amending the Public Schools of Choice Act, with the recommendations stated above, will encourage parental involvement in education, which no one can deny will benefit children.

Copyright ©2000, Independence Institute

INDEPENDENCE INSTITUTE is a nonprofit, nonpartisan Colorado think tank. It is governed by a statewide board of trustees. Its public policy focuses on economic growth, education reform, local government effectiveness, and constitutional rights.

JON CALDARA is President of the Independence Institute.

PAMELA BENIGNO, a former public school teacher, is the director of the Parent Information Center at the Independence Institute. Her role includes being an educational advisor to parents who have questions about public or private schools. She directed the development of the Parent Information Center website, which provides valuable resources for parents and students. Available on the website are Colorado public school report cards, do-it-yourself school evaluations, educational links for parents and children, and a regularly updated news page. The website address is <http://www.ParentInfoCenter.org>

PERMISSION TO REPRINT this paper in whole or in part is hereby granted, provided full credit is given to the Independence Institute.

Additional Independence Institute resources on education, and other policy issues can be found at the Independence Institute website: <http://independenceinstitute.org>

²⁷ Philip Vassallo, *More Than Grades: How Choice Boosts Parental Involvement and Benefits Children* (Washington D.C.: Cato Institute, October 26, 2000) <http://www.cato.org/pubs/pas/pa-383es.html>