



FAQs About Open Enrollment Under the Romero Bill

In January of this year, the California legislature adopted the Open Enrollment Act (the “Romero Bill”), which allows pupils attending the 1,000 lowest achieving schools (now deemed “Open Enrollment Schools”) to apply to enroll in higher achieving schools, regardless of their residence. The Romero Bill, which became effective on April 14, 2010, was initially part of California’s efforts to obtain Race to the Top funds. As school districts have attempted to sort out the meaning of the Romero Bill and the procedures for implementing the open enrollment option, a number of frequently asked questions have surfaced. These commonly asked questions and the information we have collected in response are described below.

Does the Romero Bill apply to all school districts or just to school districts with schools on the open enrollment list?

The Romero Bill applies to all school districts in the state, not just school districts with schools on the open enrollment list. Districts with schools on the list will need to comply with parent notification requirements, and may have students who apply for a transfer to another, higher-performing school within the school district or another school district. Districts without schools on the list will need to be prepared to properly respond to applications from students requesting transfers from open enrollment schools.

How does CDE determine which schools are included on the open enrollment list?

The Romero Bill requires the State Superintendent of Public Instruction to annually identify elementary, middle, and high schools in the same proportion as existed in decile 1 of the API reported in the 2008-2009 school year. As a result, the list must include the following: 687 elementary schools, 165 middle schools, and 148 high schools. Certain exclusions apply, including no court, community, or community day schools; no charter schools; no schools that are closed; no schools with fewer than 100 valid test scores; and no more than 10% of the schools in any single district. As a result of this formula, the open enrollment list includes county office of education programs, which generally serve more severely disabled special education students, and six elementary schools with API scores over 800. Please visit the California Department of Education’s Open Enrollment webpage at <http://www.cde.ca.gov/sp/eo/op/> for links to the revised Open Enrollment Schools list and the letter of notification sent to county and district superintendents with schools on the list, both of which were posted to the site on August 12, 2010.

Does the Romero Bill apply to intra-district transfers?

While much attention has been focused on the Romero Bill’s option to transfer to another school district, students enrolled in Open Enrollment Schools may also request transfers to higher achieving schools within the same school district. The parent notice requirements contained in the Romero Bill state that the notice provided to parents of students attending Open Enrollment Schools must be consistent with the notice for Title I program improvement schools, although there are significant differences between the transfer options under Title I and the Romero Bill, particularly with regard to transportation. While transportation may be available for students transferring from a Title I program improvement schools, transportation is not required by the Romero Bill.

Does the Romero Bill apply to preschool students housed on a school site that is included on the open enrollment list?

Although the Romero Bill does not specify the grade levels to which it applies, preschool students are most likely not eligible to apply for transfers under the Romero Bill. Most preschool programs housed on public school sites are specialized preschools for students with disabilities. Generally, a preschool student's placement in these specialized programs is pursuant to an individualized education program. Moreover, preschool is not compulsory and any data that might be collected regarding preschoolers is not included when calculating API scores.

Does the Romero Bill require school districts to consider transfer applications for enrollment during the 2010-2011 school year?

Prior to approval by the State Board of Education, the draft emergency regulations created expedited timelines for students seeking enrollment in new districts for the 2010-2011 school year. Under the draft regulations, school districts receiving applications, known as "districts of enrollment," had only until September 30, 2010 to grant or deny applications. The admitted pupils then had until November 1, 2010 to enroll in the identified school. These timelines were removed from the final emergency regulations approved by the State Board. Although the intent of removing these expedited timelines is not entirely clear, we believe that under the recently approved emergency regulations, school districts are not *required* to admit students who meet enrollment criteria until the start of the 2011-2012 school year. The law does provide districts of enrollment the option of waiving these timelines, if they would like to voluntarily accept students for enrollment in the 2010-2011 school year.

What should school districts do now?

Although the final Romero Bill regulations are not expected until November 2010 or later, school districts may want to consider the following:

Collect data! If you are anticipating that you might receive transfer applications for enrollment at the start of the 2011-2012 school year, begin collecting data this fall regarding enrollment, projected enrollment, program capacity, building capacity, teacher-student ratios, costs per student, class size reduction efforts, and other information that may be used to establish standards for acceptance or rejection of Romero Bill transfer applications. In addition, school districts are encouraged, but not required, to keep an accounting of transfer applications, including the number of applications granted, denied, or withdrawn, the number of pupils transferring into and out of the district, the race, ethnicity, gender, socio-economic status, and district of residence of the applicant pupils, and the number of applicant pupils classified as English language learners.

Adopt board policies and administrative regulations. We suggest adopting board policies and administrative regulations that will provide a general framework for notice requirements and consideration of transfer applications. However, school districts should consider any policies and regulations adopted as works in progress. Permanent regulations have not yet been approved by the State Board of Education, and school districts will need to revisit their Romero Bill policies and regulations once the final regulations are approved.

Comply with parent notification requirements. For schools districts with a school on the open enrollment list, districts must notify parents on or before the first day of instruction (or, if the district has not received notice that its school is on the list, by September 15th) of the right to apply for a transfer under the Romero Bill. This notification is different from and in addition to the notice required for Title I program improvement schools.

Stay informed. CDE is expected to provide additional guidance regarding implementation of the Romero Bill and the California School Board Association is drafting sample board policies in this area.

In addition, after a period of public comment and review, we expect the final regulations to be approved some time in late fall 2010. As this is a quickly evolving situation, school districts should continue to stay alert to any developments related to the Romero Bill.

For further information on the Romero Bill, please refer to our previous NewsFlashes at <http://www.fagenfriedman.com/newsflash.php?nf=205> and <http://www.fagenfriedman.com/newsflash.php?nf=211>. If you have any questions regarding this matter, or would like assistance developing or revising your open enrollment policies or parent notice, please call one of our five offices.

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