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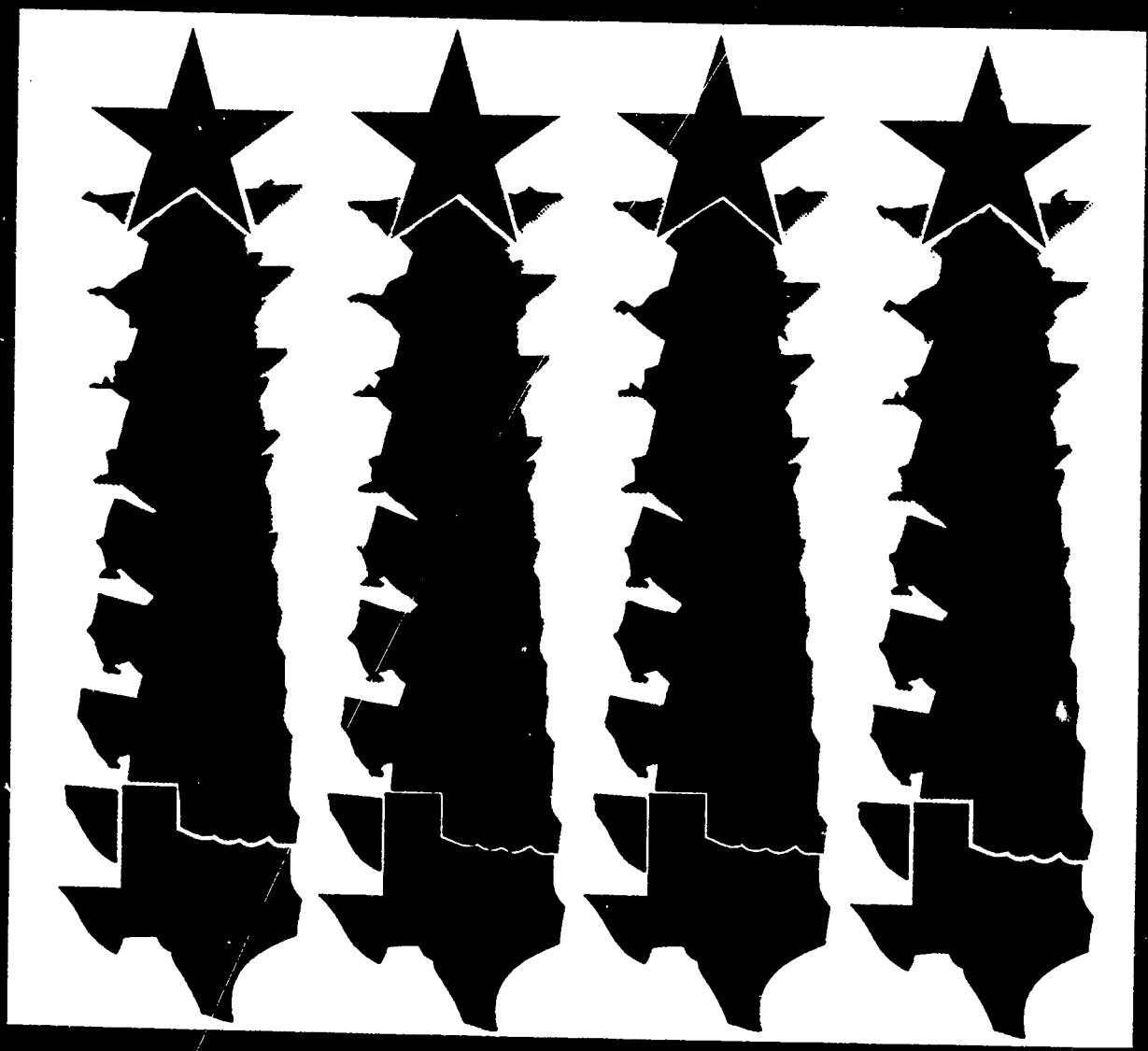
ABSTRACT

Open enrollment is a subject of policy debate among educators and policy makers both at the national and state levels. Open enrollment is defined as the notion of enabling parents and students to choose among school sites and districts, without regard to place of residence. Proponents claim that open enrollment will enhance racial integration, improve student achievement, empower parents and stimulate parental involvement, foster healthy competition among schools, enhance professionalism of educators, incur little additional cost, and improve accountability. The 71st Texas Legislature directed the State Board of Education to appoint a committee composed of legislators, educators, and private citizens to study the advisability and feasibility of open enrollment within school districts. This report presents a brief outline of the characteristics of intradistrict open enrollment, initiatives and desired outcomes associated with such policies, the constraints and issues to be addressed in designing and implementing an intradistrict open enrollment policy, and the current status of intradistrict open enrollment in Texas. Appended are demographic profiles of Texas districts with multiple campuses and selected districts of other states and excerpts from the statutes and regulations of Senate Bill 417. (Contains 60 references.) (RR)



OPEN ENROLLMENT WITHIN TEXAS' PUBLIC SCHOOL DISTRICTS

FROM THE STATE BOARD OF EDUCATION

TEXAS EDUCATION AGENCY
AUSTIN, TEXAS

JANUARY 1991

OPEN ENROLLMENT WITHIN TEXAS' PUBLIC SCHOOL DISTRICTS

From the State Board of Education

Submitted to the Governor, Lieutenant Governor, And the Seventy-Second Texas Legislature

1989-1990

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State Board Of Education

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January 1991

The Honorable Ann W. Richards, Governor of Texas
The Honorable Bob Bullock, Lieutenant Governor of Texas
The Honorable Gibson D. Lewis, Speaker of the House
Members of the 72nd Legislature

Section 2.31 of Senate Bill 417 adopted by the 71st Texas Legislature directs the State Board of Education to "appoint a committee composed of legislators, educators, and private citizens to study the advisability and feasibility of open enrollment within school districts." The measure further requires that the board "report the results of the study to the 72nd Legislature with any recommendations for legislation."

In October of 1989, the State Board of Education appointed the Open Enrollment Advisory Committee and charged this committee with studying the concept of open enrollment and bringing a recommendation for its consideration. After more than a year of study, the committee has submitted its report to the board. The State Board of Education now submits the Open Enrollment Advisory Committee report to the legislature for its consideration. Although this report includes a resolution endorsed by the Open Enrollment Advisory Committee, this resolution was not approved by the State Board of Education. The board noted that school districts currently have the authority to implement open enrollment plans and in fact a number of districts already do. The decision of the board was to send this report forward but without its full endorsement. The consensus was that no legislation was needed in this area at this time.

Respectfully submitted,

Carolyn Honea Crawford, Chairman
State Board of Education

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THE TEXAS HOUSE OF REPRESENTATIVES
Bill Hammond District 109 Dallas County

December 3, 1990

State Board of Education
Austin, Texas

Members of the Board:

Senate Bill 417, 71st Texas Legislature, directed the State Board of Education to appoint a committee composed of legislators, educators, and private citizens to study the advisability and feasibility of open enrollment within school districts. The result of this study, as approved by the State Board of Education, must be reported to the 72nd Texas Legislature with any recommendations for legislation.

This committee has met a number of times during the past year. Various speakers addressed the committee including Secretary of Education Lauro Cavazos. Additionally, the committee researched and reviewed both the history and current status of open enrollment from a national perspective. Attached is a copy of the final report as adopted by the committee on November 13, 1990. Page one of this report contains a legislative recommendation in the form of a resolution. This resolution was approved by an overwhelming majority of the members of the advisory committee. The remainder of this report contains background information considered by the committee in arriving at its final recommendation.

Your consideration of this report and the final resolution as adopted is appreciated.

Sincerely,

Bill Hammond, Chairman
Advisory Committee on
Open Enrollment Within
School Districts

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RECOMMENDATIONS OF THE OPEN ENROLLMENT ADVISORY COMMITTEE

RESOLUTION

Whereas, students statewide are best served by local decision making;

Whereas, state policy is best attained through the use of incentives rather than by state mandate;

Whereas, lack of parental involvement in our schools has been identified as a significant social problem;

Whereas, it is felt that increased parental involvement may significantly improve the levels of student performance;

Whereas, encouraging parental participation, in the selection of schools which their children will attend, will provide for the direct involvement of parents in the educational decision making process; and

Whereas, parental choice may well be an effective method of improving educational opportunities for all students;

Now Therefore, be it resolved that the Advisory Committee on Open Enrollment hereby strongly recommends that the State of Texas put in place an incentive system with appropriate funding which will encourage local public school districts to adopt appropriate open enrollment plans for their districts.

INCENTIVES

The following suggestions are made for legislative or Texas Education Agency action as incentives for school districts to initiate or expand parental option programs.

The legislature should fund a grant program designed to allow districts to develop plans for selecting and training principals to develop innovative programs involving choice.

The agency should:

- produce and distribute material designed to educate the public about open enrollment;
- develop service center-based programs, which include speakers promoting open enrollment, for use by community organizations;
- develop a means for providing technical and financial support to individual districts that are initiating or expanding open enrollment programs;
- provide mediation-oriented assistance to districts regarding contracted or shared services with post secondary institutions;
- develop guidelines for the use of part-time or temporary instructors from business/industry in specialized subjects which also allow instruction to take place within the business or industrial facility;
- develop training and encourage the formation of groups of teachers and principals interested in innovative programs involving choice; and
- develop a training program for principals regarding the identification and recruitment of teachers who are likely to succeed in programs designed to promote parent involvement.

BACKGROUND

In Section 2.31 of S.B. 417, the 71st Texas Legislature directed the State Board of Education to "appoint a committee composed of legislators, educators, and private citizens to study the advisability and feasibility of open enrollment within school districts." The board is also required to "report the results of the study to the 72nd Legislature with any recommendations for legislation."[1] Accordingly, this report presents a brief outline of the characteristics of intradistrict open enrollment, initiatives and desired outcomes associated with such policies, the constraints and issues to be addressed in designing and implementing an intradistrict open enrollment policy, and the current status of intradistrict open enrollment in Texas.

Open enrollment is a subject of policy debate among educators and policy makers both at the national and state levels. Proponents claim that open enrollment will enhance racial integration, improve student achievement, empower parents and stimulate parental involvement, foster healthy competition among schools, enhance the professionalism of educators, incur little additional cost, and improve accountability. Opponents claim that open enrollment will resegregate schools, undermine public accountability, result in the closing instead of improvement of schools, exacerbate the differences in student achievement among socioeconomic and ethnic groups as schools react to the demands of more informed and influential parents, increase costs, provoke litigation, and allow for experimentation at the students' expense. Despite the debate, open enrollment is not a new policy to many states and locales. To date, more than 21 states have considered or are implementing some type of open enrollment policy, and at least 45 states have some kind of choice programs at the district level.[2]

Most recently, the 71st Texas Legislature, Sixth Called Session, provided the incentive for districts to implement open enrollment policies. State funding and waiver of conflicting law or rule, for the implementation of student and parental choice among public schools is provided through Section 11.27 of the Texas Education Code regarding innovative programs.[3] While this opportunity is quite recent, open enrollment strategies and choice among the schools within Texas districts are not such recent phenomena. For example, the Garland Independent School district has maintained an open enrollment policy since 1965. Within districts like the Houston Independent School District, 31,320 of the 191,000 students were granted transfers for the 1990-91 school year. By way of comparison, 6,134 students exercised the option to choose among the public school districts of Minnesota for the 1990-91 school year, and approximately 9,900 of the 36,000 students in the St. Paul School District were granted transfers to schools within the district.[4]

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1 Section 2.31, S.B. 417, 71st Texas Legislature, Regular Session.

2 Education Commission of the States, *State Policy Makers Guide*; New Jersey State Department of Education, *Public School Choice: New Options for New Jersey Students, Parents, and Educators*; and testimony of Congressman Steve Bartlett to the Open Enrollment Advisory Committee 2/14/90.

3 Texas Education Code Section 11.27 and Section 11.271.

4 Statistics for the State of Minnesota were provided by the Minnesota Department of Education. Statistics for the Houston Independent School District and the St. Paul, Minnesota School District were provided by the

OPEN ENROLLMENT IN GENERAL

Open enrollment is defined as the notion of enabling parents and students to choose among school sites and districts, without regard to place of residence. Open enrollment polices are also commonly referred to as public school choice, parental choice, or educational choice policies. For the purpose of this document, all such terms will be considered to carry the same meaning. In general, open enrollment polices represent one part of a broader effort to restructure public education systems with the end goal being educational improvement.

Arguments Advanced By Proponents of Open Enrollment[5]

The central argument made by supporters of open enrollment plans is that choice increases accountability by allowing parents and students to "vote with their feet." Basing the argument on the same principle which holds that free market forces act to ensure the best quality product at a given price, choice advocates assert that competition induced by open enrollment will ensure that only the best schools prevail, improving the overall quality of education. Accountability is provided through the choices made by parents and students, which constitute an implicit evaluation of a particular school's performance. Schools able to attract more students are rewarded, while schools losing enrollment have an incentive to improve their program and gain additional students.

Parental choice programs are also advocated as a means of offering poor families some of the options already available to middle- and upper-income families, who can send their children to private schools or relocate to areas served by the best public schools. In general, proponents contend that transportation -- together with an effective system of parent information, outreach, and counseling -- provides all families with an equal opportunity to take advantage of a parental choice program.

Supporters assert that the substitution of choice for forced busing or other mandatory school assignment plans can increase community support for desegregation. Even though children may still ride buses to school, the opportunity to choose among schools may reduce resistance to busing. And, in some cases, result in the reenrollment of children whose parents had chosen private schools in order to avoid busing.

Proponents maintain that choice programs increase parental involvement and student motivation by requiring a thoughtful selection among schools. When choice is coupled with programs in which schools diversify to meet consumer demand, the situation provides for a better match between student needs and educational offerings. Parents are more likely to become involved with a

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Houston Independent School District and the St. Paul School District respectively.

[5] This information was adapted from the Texas House of Representatives' House Research Organization, Special Legislative Report number 159, *Two Education Initiatives: Accountability and Testing and Open Enrollment*, 1990, pp. 27-28.

program that they have selected from several alternatives, while students are likely to develop a stronger identification with the school.

Advocates also contend that open enrollment enhances continuity in education, since students do not have to change schools if they change residences within their district. In poor communities, in which families tend to move more frequently, such continuity may improve the chances of educational success.

Finally, those who promote open enrollment strategies caution that such a policy alone should not be regarded as a panacea which can bring about broadscale educational improvement.

Arguments Advanced By Opponents of Open Enrollment[6]

Opponents of choice programs assert that a free-market approach is an inappropriate paradigm for a public service like education. The basis for this argument is that education is not analogous to a consumer good. Rather it is an essential public service which also provides private benefit to the recipient. Further, the argument is extended to point out that in the free market, people with the fewest resources often receive the lowest quality goods. Those advancing this view urge that the goal be to provide incentives for all schools to raise their quality.

Another key argument of those who challenge the notion of open enrollment is that the policy offers a mirage of educational reform while actually changing very little. Unless coupled with real school improvement, choice plans please parents but do little to reform education. Further critics argue that parents will make their choices on the basis of convenience rather than perceptions of educational quality. Others point out that some widely publicized choice plans actually are scarcely used. In Minnesota, for instance, only 6,134 (less than 1 percent) of the state's 721,000 students transferred out of their home district for the 1990-91 school year.

INTRADISTRICT OPEN ENROLLMENT

Intradistrict open enrollment is defined as a policy that allows parents control in determining which school site or educational program their child attends within the district. Intradistrict open enrollment policies can be classified according to three broad categories including controlled choice, schools of choice, and magnet schools. It should be noted that although there are three distinct types of intradistrict open enrollment policies, these types of policies often are implemented in a combined approach. For example, district may implement magnet school programs along with schools of choice or controlled choice strategies.

Controlled Choice

With a controlled choice policy, school assignment within the district is based upon family choice among all schools serving the child's grade level,

[6] This information was adapted from the Texas House of Representatives' House Research Organization, Special Legislative Report number 159, *Two Education Initiatives: Accountability and Testing and Open Enrollment*, 1990, pp. 28-29.

with the only restriction on choice being maintenance of desired or required ethnic balances.[7] According to the Education Commission of the States, controlled choice strategies were designed as a means of addressing desegregation in Massachusetts in the early 1980s. Such policies have also been implemented in Seattle, Washington and San Jose, California.

Because the controlled choice model emphasizes the maintenance of appropriate ethnic balances, seats at each campus are allocated on a proportional basis which reflects the overall ethnic composition of the district. Within this constraint, families are allowed to select the school they prefer. In general, the policy also provides the assurance that students are able to continue to attend their campus of preference through the span of grade levels served at the site.

Another commonly cited implementation practice associated with controlled choice initiatives is subdivision of the district into zones containing a number of campuses. This arrangement minimizes the need for long-distance busing, thereby lowering transportation costs. Under a zone arrangement, parents are allowed to select schools of their preference within a particular area of the district.

In general, controlled choice policies do not guarantee that families will be assigned to the school indicated as their first choice. However, in practice, a large percentage of first preferences are accommodated. For example, in Massachusetts districts with controlled choice plans, fewer than 10 percent of the total student population is unable to attend the school named as first choice.

The controlled choice plan implemented in Cambridge was one of the earliest examples of this model of intradistrict open enrollment. Within the Cambridge district choice is not restricted to zones and there are no defined attendance areas. Parents are assisted in decision making through information, counseling, and application assistance provided by the district's Parent Information Center. Parents may rank up to four schools in submitting an application to the district's assignment officer. The assignment officer is responsible for assigning each student to a school with consideration given to maintaining racial balance, proximity to home, and assignments of siblings.[8]

Schools of Choice

Although ethnic balance remains a consideration, school assignment is not based upon residence within a designated attendance zone under a schools of choice model. Instead, families choose the school their child will attend from campuses whose offerings are based on differing educational approaches. Thus, schools are allowed the freedom to follow different philosophies as long as educational outcomes are attained and parents choose to send their children to that type of school. If there is more demand for one type of philosophy than another, more campuses may be redesigned to offer the approach desired or

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[7] Education Commission of the States, *State Policy Makers Guide*, p. 34.

[8] Material regarding the Cambridge, Massachusetts plan was obtained from *Politics, Markets, and America's Schools*, by John E. Chubb and Terry M. Moe, pp. 210-211.

schools are created within other schools where space allows. Within the schools of choice model, traditional schools are one choice among many.

While schools of choice plans resemble magnet school plans to an extent, they differ in that schools of choice strategies are aimed at every school within the district. In short, such a policy would "magnetize" all schools within the district.

A well-known example of intradistrict choice based on the schools of choice model is the system implemented in New York City's District 4 in East Harlem. The overall goal of the system is to meet the individual needs of all students. As stated by Seymour Fliegel, a former deputy superintendent of District 4: "The aim here has been to create a system that -- instead of trying to fit students into some standardized school -- has a school to fit every student in this district. No one gets left out; no one gets lost. Every kid is important; every kid can learn if you put him or her in the right environment. But since kids have this huge range of different needs, different interests, and different ways of learning, we've got to have a wide diversity of schools. Which is what, after 13 years at it, we've just about got."[9] In recent years, 60 percent of the students in District 4 have received their first choice among schools, 30 percent their second choice, and 5 percent their third choice.[10] Because of the unique characteristics of the East Harlem District, some question the applicability of this model to other settings. A description of District 4 is provided in Appendix A.

Another example of the schools of choice model is the "System for Choice" program being implemented in California's Richmond Unified School District. Under this system, students and parents may choose among campuses offering 10 diverse academic specialties. At the elementary level, these include classical studies, futures studies, gifted and talented programs, international studies, Montessori, university laboratory, and whole language studies. In the secondary schools, the specialties are applied arts and sciences, classical studies, university laboratory, and gifted and talented programs including math, science, and technology and visual/performing arts and humanities. All students study a basic core curriculum including reading and language arts, mathematics, sciences, history, and social studies. A profile of the Richmond district is provided in Appendix A.

Magnet Schools

Magnet schools represent islands of choice within a traditional geographically zoned student assignment plan. These schools typically focus on a curricular specialty, such as the arts or sciences or employ a particular educational philosophy such as a Montessori or model school approach. An entire campus may be devoted to a magnet program, or such a program may be housed along with a traditional program.

In general any student within the district, regardless of residential attendance zone, can apply to attend a magnet school. Admissions procedures for magnet programs vary considerably among districts. In some locales,

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[9] As quoted from another source in *Phi Delta Kappan*, December 1989, p. 291.

[10] *Politics, Markets, and America's Schools*, by John E. Chubb and Terry M. Moe, p. 214.

admission is on a first-come-first-served basis; in others admission is determined by lottery after an application period. Because magnet schools have often been initiated as a means of promoting racial balance, some districts allocate seats proportionally according to the district's ethnic composition.

A number of Texas districts offer magnet programs. The Houston Independent School District has 84 full-time magnet programs with 50 programs at the elementary level and 34 at the secondary level, and an additional 7 part-time elementary magnet programs and special programs at all grade levels and most campuses for gifted and talented students. Of the 84 full-time magnet programs, focus is provided in the areas of sciences and mathematics, performing and visual arts, health professions, aerospace sciences, communications, business administration, foreign languages, teaching professions, essential schools, fine arts, physical development, model schools, environmental sciences, music, Montessori, and technology. Children also are offered the opportunity to participate through one-week cluster center activities. In all, approximately 60,000 HISD students are involved in either full-time magnet programs or cluster centers, with an additional 11,000 students enrolled in magnet programs for the gifted and talented.[11] In addition, responses to a September 1990 survey of a sample of Texas districts with multiple campuses at one or more grade levels indicated that 39 percent of those districts offered magnet programs of some type.

SUMMARY

Open enrollment is clearly a topic of much interest and study on the part of policy makers, educators, and the public in general. Through S.B. 417, the 71st Texas Legislature provided an opportunity for the study of the advisability and feasibility of intradistrict open enrollment policies in Texas school districts. The purpose of this document is to present the results of this study and the concomitant recommendations of the Open Enrollment Advisory Committee to the 72nd Texas Legislature.

The following sections of this document provide a brief description of initiatives and desired outcomes associated with open enrollment policies, the issues and constraints influencing open enrollment policies, and the current status of open enrollment in Texas. While the information presented in this document represents an investigation of intradistrict open enrollment policies, it is not intended to be a comprehensive or exhaustive study of the subject matter. Open enrollment policies present some difficulty as an object of study because such policies rarely are implemented in isolation but rather, tend to be interwoven with other restructuring efforts. Accordingly, the results of any examination of open enrollment policies, including this document, should be carefully interpreted within the context of other accompanying reforms.

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[11] Statistics for the Houston Independent School District were provided by the Houston Independent School District. Approximately 21,000 students were granted transfers to magnet schools for the 1990-91 school year as of June 1990.

ASSOCIATED INITIATIVES AND DESIRED OUTCOMES

INTRODUCTION

As stated earlier, an open enrollment policy alone is not likely to result in immediate and widespread educational improvement. However, the intradistrict open enrollment models discussed in the previous section also tend to be accompanied by restructuring strategies which appear to enhance educational effectiveness. In particular, initiatives which encourage diversity in educational approach, site-based management, and enhanced employee involvement in decision making appear to support and complement open enrollment arrangements. In fact, most of the districts commended for having successful intradistrict open enrollment policies have implemented restructuring initiatives along with open enrollment strategies. Further, evidence of desired educational outcomes from such districts is difficult to attribute to any one part of the overall system implemented. Accordingly, this section will first address some of the restructuring initiatives associated with open enrollment policies, with information regarding some of the desired outcomes of the overall system following.

ASSOCIATED INITIATIVES

Site-Based Management

Section 13.352(d) of the Texas Education Code which provides for increased site-based autonomy was enacted by the 71st Texas Legislature, Sixth Called Session in 1990. The subsection provides principals with the authority to "approve all teacher and staff appointments for the campus from a pool of applicants selected by the district or of applicants who meet the hiring requirements established by the district, based on criteria developed by the principal after informal consultation with the faculty[.]" The subsection also provides principals with the authority to: set specific educational objectives for the campus with the involvement of staff; develop budgets for the campus; work with school professionals to prepare individual development plans; and attend in-service training relating to making district-level decisions.[12] Another incentive for increasing site-based management is provided by Section 11.27 of the Texas Education Code regarding innovative programs. Included in this provision's list of innovative programs for which funding and waiver of conflicting law and rule is available is decentralization of organizational decisions.

Diversity in Educational Approach

Educational diversity refers to the provision of a range of educational options that extends from preschool through high school and that encompasses everything from a very traditional "back-to-basics" approach, through departures from the traditional in approaches such as "continuous progress" or "individually guided" education, and may extend to include Montessori, "open," or even "microsociety" schools.[13]

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12 Texas Education Code Section 13.352(d).

13 *Phi Delta Kappan*, December 1989, pp. 290-291.

The premise of educational diversity is based upon the rejection of the notion that there is one best way to educate all students. Rather, the concept of educational diversity maintains that each student's education should be individualized to the extent possible. In other words, within the constraint of agreed-upon educational outcomes, diversity provides educators the freedom to determine the method which will best enable students to attain those outcomes. Diversity does not require that an entire campus be devoted to a particular educational approach. Different approaches have been accommodated successfully through schools-within-schools, minischools, or classroom-based approaches according to the district's determination of student needs, parental initiative, and educator interest and expertise.

Opportunity to enhance educational diversity is provided through Section 11.27 of the Texas Education Code regarding innovative programs. State financial support and waiver of conflicting law or rule are provided for programs approved under this provision. Programs conducive to educational diversity which are listed in TEC Section 11.27 include, but are not limited to, school year restructuring, alternative learning environments, decentralization of organizational decisions, an extended school day, continuous progress education, student-teacher ratios below 22:1 in elementary grades, bilingual training, magnet schools, interdisciplinary curriculum, and peer tutoring.

Employee Involvement in Decision Making

Section 21.930 of the Texas Education Code, enacted in 1990 by the 71st Texas Legislature, Sixth Called Session, provides a basis for increasing employee involvement in district-level decision making. Specifically this section directs districts to adopt a policy to involve the professional staff of the district in establishing and reviewing the district's educational goals, objectives, and major district-wide classroom instructional programs. Two-thirds of the representatives of the professional staff participating in the process are to be classroom teachers, with the remaining one-third consisting of campus-based staff.[14]

DESIRED OUTCOMES

The following sections outline a number of desired outcomes associated with open enrollment and other accompanying restructuring strategies. However, not all districts implementing open enrollment policies achieve similar outcomes. For example, some districts may note improved student achievement, while others measure little change in student achievement. One district may note enhanced professionalism among teachers and administrators as the only measurable outcome and a similar district may note increased parental support and involvement. In other words, neither supporting nor contrary evidence provided with regard to these outcomes should be interpreted as proof that these outcomes will be realized in all situations. In fact, the very amount of evidence both in support and negation of these outcomes should serve to curb expectations for similar results in different settings. It is stated, again, that achievement of desired educational outcomes is difficult to attribute to any one part of the overall system implemented.

[14] Texas Education Code Section 21.930(a)(c).

Professionalism Among Educators

One of the desired outcomes linked to school systems implementing open enrollment and other complementary restructuring policies is that of increased professionalism among teachers and administrators. The characteristics of professionalism are coordination and collaboration among teachers, nonadversarial teacher-administrator relations, and low rates of absenteeism. While enhanced professionalism cannot be linked to any specific initiative or policy, evidence suggests that increased individual autonomy is correlated as well as freedom to pursue individual philosophies regarding education.[15]

In instances where site-based autonomy leads to a more collegial form of school organization and management, organizational characteristics and school climate have been linked to high levels of teacher satisfaction, low absenteeism rates, and positive student response.[16]

Student Achievement

As a desired outcome, improved student achievement needs little explanation. Like other education reform initiatives, open enrollment is aimed at educational improvement and this improvement tends to be evaluated in terms of student achievement. However, student achievement gains often cannot be solely attributed to public school choice or any one of the specific reforms which may accompany it. For example, Dr. Jill Shugart of the Garland Independent School District noted that while a number of campuses in the district, particularly magnet schools, have exhibited marked improvement in student achievement, these gains are not clearly attributable to the district's open enrollment policy.[17]

By contrast, New York City's District 4 in Harlem, placed 32nd of the city's 32 community school districts in terms of reading achievement scores in 1974. In 1988, District 4 was ranked 19th of the 32 community school districts for reading achievement scores.[18] In mathematics achievement, District 4 has moved from ranking 23rd in 1983 to ranking 19th of 32 districts in 1988.[19] Interpretation of this information should be made within the context of the unique nature both of the district as a whole and of the program, rather than campuswide, basis of the district's educational offerings. A profile of the district describing these characteristics is contained in Appendix A.

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[15] For example, see *Education Week*, June 24, 1987, p. C13; *Governing*, July 1989, pp. 52-53; the work of John E. Chubb and Terry M. Moe, particularly the question-and-answer documents such as the *Report to the People of Connecticut*; Phi Delta Kappa Fastback #283, *The Case for Public Schools of Choice*, by Mary Ann Raywid, pp. 16-19; and *Phi Delta Kappan*, December 1989, p. 293.

[16] As cited *The Case for Public Schools of Choice*, Phi Delta Kappa Fastback #283, 1989, pp. 25-26.

[17] Testimony of Dr. Jill Shugart, Superintendent Garland ISD, as recorded in the minutes of the Open Enrollment Advisory Committee, February 14, 1990.

[18] Manhattan Institute for Policy Research, *Model for Choice: A Report on Manhattan's District 4*, Education Policy Paper Number 1, p. 10.

[19] Manhattan Institute for Policy Research, p. 13.

Subsequent to the implementation of an open enrollment policy and extensive restructuring of school programs, a declining student achievement trend within the Richmond Unified School District in California was reversed. Student achievement as measured by the California Assessment Program for third, sixth, and eighth grade students showed gains beyond the average gains statewide for the 1987-88 school year. Results for the 1988-89 school year revealed gains in percentile ranking for third and sixth grade students in reading, mathematics, and writing. Again, the gains should not be interpreted as attributable to the open enrollment policy in isolation. A profile of the Richmond Unified School District is presented in Appendix A.

Evaluations of the all-magnet system in New Jersey's Montclair School District by the Educational Testing Service in 1987 and 1989 found that basic skills scores showed an improvement subsequent to implementation of the magnet program.[20] Because all of the district's schools are magnet programs, this information is less prone to distortion due to concentrations of high-achieving students than is evidence provided for selective magnet programs. However, the data should be interpreted within the context of the middle to upper socioeconomic status of the district's residents and other demographic variables. A demographic profile of the district is provided in Appendix A.

Competition

Under an intradistrict choice arrangement, competition is viewed as a means of improving schools to better meet the needs of students. With many schools filled to capacity, the notion of closing schools is unrealistic. However, demand for certain campuses over and above that for others can provide justification for physical as well as academic improvements at the less popular sites. The overall goal of an open enrollment policy is not to put schools "out of business" but to improve public education.

Parental Commitment and Support

Like student achievement, parental commitment and support does not require further explanation as a desired outcome. In addition, parental support is one of the most widely documented outcomes of open enrollment arrangements. As stated by Dr. Jill Shugart, Superintendent of the Garland Independent School District, "parents like the idea of having [a] choice."[21] Dr. Shugart further indicated that one of the benefits of the district's open enrollment policy was an increased feeling of ownership by parents.

Attendance at a magnet school or other school of choice often requires that students travel some distance from their neighborhoods. Evidence suggests that distance does not necessarily result in less parental involvement. Reports on programs in New York and Maryland indicate that despite distances, parents attended conferences with teachers, made classroom visits, and did volunteer work in magnet schools.[22]

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[20] Educational Testing Service, *Choice in Montclair, New Jersey*, pp. 12-15.
[21] Testimony of Dr. Jill Shugart, Superintendent Garland ISD, as recorded in the minutes of the Open Enrollment Advisory Committee, February 14, 1990.
[22] *The Case for Public Schools of Choice*, pp. 29-30.

POLICY ISSUES AND CONSTRAINTS INFLUENCING OPEN ENROLLMENT

The following material is designed to provide a basis for examination of some of the issues that districts must address in implementing open enrollment policies. In general, the policy issues described below tend to concern fair and equal access to schools of choice, interscholastic competition, and financial considerations.

FAIR AND EQUAL ACCESS

The question of providing fair and equal access to all schools in the district is undoubtedly one of the most important that districts will face in implementing open enrollment policies. A number of specific issues have been identified as crucial to ensuring that all families, and particularly poor and minority families, are able to take advantage of the opportunity to choose their children's schools.

While the issues described below have been identified through the experiences of districts in other parts of the nation, it is evident that many of these issues will need to be addressed by school districts in Texas as well. For example, examination of the enrollment of the 215 districts which have more than one campus for any or all grade spans reveals that a large percentage of students in these districts are either poor or are members of ethnic minorities. In particular, the minority enrollment in 131 (60.9 percent) of the 215 districts exceeds 30 percent of total enrollment, and 116 (53.9 percent) of the districts have more than 30 percent low income enrollment. By way of comparison, 44.9 percent of districts statewide have minority enrollments exceeding 30 percent, and 65.5 percent of districts in the state have low income enrollments in excess of 30 percent.

The issues identified as critical to fair and equal access under open enrollment policies include communication, transportation, desegregation, processing practices, and access for students with disabilities. Each of these areas will be examined briefly below. Because many of the issues affecting fair and equal access are related to the demographic makeup of a district, Appendix A contains reference tables which provide an aggregate demographic profile of the 215 districts with multiple campuses at any or all of the elementary, middle school/junior high and high school levels.

Communication

Informing families of their option to choose a school for their children is an important first step. Communications become especially important in ensuring equal access because the key to making a choice among schools is information. Basically, districts implementing open enrollment policies have shared a number of concerns in this area.

First among these concerns is the need to ensure that all families are provided with meaningful and understandable information. Specifically, the concern is that open enrollment not be inadvertently restricted to those parents who have the educational level and means to pursue their option to choose. Not only must information be widely distributed, but it must be

distributed in a form that is understandable to parents of all educational levels and to parents who do not speak English.

Secondly, there is a need to ensure that parents actually make a choice of schools. The concern shared by many districts with open enrollment policies is that poor families, those who are otherwise concerned with basic survival, or families which are primarily non-English-speaking, may not avail themselves of the opportunity to choose schools. Some of the experiences of districts implementing open enrollment policies indicate that single parents and families in economic need or facing emotional crises may not manage to read material received through the mail, due to other pressing demands. Other parents may be functionally illiterate and unable to read or respond to printed material. Some may believe that they are not qualified to select a school. Obviously, parents who do not speak English or the dominant foreign language of a region, such as Spanish or French, may not be able to read and respond to the material received even if it is presented in multiple languages.

While no communication process is likely to be flawless, some approaches to communication issues may help in ensuring that all families are informed. These include supplementing mailed materials with public service announcements on radio and television, holding parent meetings at neighborhood schools, and holding individual school counseling sessions with all parents. Because of the many differences among school districts in Texas no one strategy can be said to be appropriate for all districts. Presently, at least three of the Texas districts with intradistrict open enrollment policies find it necessary to supplement letters to parents with press releases, public service announcements, brochures, or school meetings.[23] Although districts differ in terms of the communications needs of the families they serve, informing all parents of their rights and responsibilities regarding open enrollment is an important first step in ensuring fair and equal access in choosing schools.

Transportation

Another factor which affects parents' ability to choose schools is the availability of transportation. Again, the concern is to avoid inadvertently restricting choice to those families who are able to provide transportation to schools outside their neighborhood. A variety of approaches are available to districts in addressing this problem. Some strategies in use include providing transportation for all students; providing transportation for all students attending school more than two miles from their residence; providing transportation for students whose parents meet some criteria of financial need or logistical hardship, as in the case of working single parents; and restricting choice to zones within the district with corresponding transportation routes.

Whatever the particular approach to the transportation issue, availability clearly affects fair and equal access to schools of choice. As with the issue

[23] In September 1990, the Texas Education Agency conducted a survey of a sample of 55 of the 215 districts with multiple campuses. Of the 49 districts responding, five indicated that they had open enrollment policies. Three of these five districts with open enrollment policies employed the communications strategies listed here.

of communication, some strategies are more appropriate to the needs of certain types of districts than others. Obviously, transportation issues become more complex and critical in districts which are geographically widespread, densely populated, and poor. While the issue may be particularly problematic for these districts, other districts will not be able to ignore transportation issues entirely.

Processing Practices

With regard to processing, again, the concern is to eliminate any undue advantage to those who have the means to ensure that their expressed preferences are processed first. Open enrollment policies involving magnet school programs and those operating within tight constraints on ethnic balances (i.e. those within which choice is most limited) are most susceptible to problems with assignment procedures. One equal access pitfall, faced by several districts around the nation, results from processing on a first-come-first-served basis. Under such a system, those who can manage to be first in line during the application period or who mail their applications earlier are many more times likely to receive their first preference in schools or to be admitted to a magnet program.

Processing practices which enhance access typically involve an element of random selection. For example, one district processes all applications received during a given month on a specific date without attention to the order in which applications were received. Other districts strictly adhere to assignment based on a lottery system after an application deadline. Because districts with open enrollment policies tend to serve ethnically diverse populations, many apply whatever random selection procedures they use within ethnic classifications. In other words, all applications for a particular school are sorted by ethnic category and then a random selection procedure is applied within each category. Because a large proportion of the Texas districts which might implement open enrollment policies have high concentrations of minority students and/or offer magnet programs, this issue is likely to be subject to much consideration. As mentioned above, 60.9 percent of districts with multiple campuses at any or all grade levels have minority enrollments exceeding 30 percent. In addition, 38.8 percent of the sample of multi-campus districts surveyed by the Texas Education Agency offer magnet programs.

Desegregation

Districts operating under a desegregation order or the vestiges of such an order must obviously give serious consideration to the issue of maintaining appropriate ethnic balances within an open enrollment system. Open enrollment policies may also be employed as a means of encouraging voluntary desegregation or as a plan to attain court-ordered desegregation. A well-known example is the Garland Independent School District's open enrollment policy which was implemented as a means of attaining court-ordered desegregation in 1965.[24]

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[24] Those interested in obtaining additional information about the policy implemented in Garland ISD should obtain a copy of the document entitled, *Organizational Information for the 1990-91 Freedom of Choice of Schools Plan*

Students With Disabilities

As a class protected under federal law, the handicapped must be assured equal access and may not be categorically excluded under any policy adopted by a school district. The treatment of students with disabilities must be carefully addressed in the development of an open enrollment policy.

An interdistrict open enrollment policy which categorically excluded special education students and students determined to be handicapped after enrollment was found to be in violation of federal regulation by the U.S. Office for Civil Rights.[25] While the finding of the Office for Civil Rights pertained specifically to an interdistrict open enrollment policy, it cannot be ignored in regard to intradistrict policies as well, particularly in regard to admissions policies. The plan that was found in violation did not offer the same opportunity for enrollment that was afforded to nonhandicapped students. Federal regulations also prohibit inequity in opportunity to participate in or benefit from services.[26]

It is clear that special education students cannot be excluded from participating in an open enrollment system, but the participation of such students raises a number of other issues in regard to federal requirements for appropriate placement, service provision within the least restrictive environment, and placement as close to a child's home as possible. While such issues should not prevent a district from developing and implementing an open enrollment policy, they should be addressed in developing the policy.

INTERSCHOLASTIC COMPETITION

An area certain to require districts' attention in conjunction with the implementation of an open enrollment policy is that of interscholastic competition. In particular, the issue relates to schools recruiting students for participation in extracurricular activities. Some states, notably Minnesota, have taken the position that parents should have the option to send their children to the school that has the best program whether it is football, band, science, or English.

In Texas, the issue involves questions regarding high school students' eligibility to participate in varsity athletic, academic, and music competitions. The rules of the University Interscholastic League (UIL) regarding residence for the purpose of determining eligibility for varsity athletic competition are contained in the UIL Constitution, Chapter M, Section 440(b). These rules directly address eligibility considerations pertaining to students in districts with open enrollment policies and magnet schools. Section 440(b)(2)(B) states that a student is eligible to participate in a varsity athletic contest if, in addition to meeting other outlined criteria, "he transferred during the first year he had the opportunity to do so from a

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and the Garland Independent School District Desegregation Plan from Garland ISD.

[25] Ruling #09-90-1006, Office of Civil Rights, 1990.

[26] Title 34 Code of Federal Regulations Section 104.4(b)(1)(ii).

high school within a school district to the district's vocational high [school], a magnet school, or optional attendance area[.]"

Further interpretation of this rule is provided by two of the Official Interpretations of the UIL's State Executive Committee. According to Official Interpretation #4,

> students who have an option to attend more than one high school within a school district, rather than being assigned to a school according to attendance zones, are eligible at the school they first select. If a student subsequently changes to another school within that school district, he is not eligible for varsity athletic competition until he has been in and regularly attended that school for at least the previous calendar year.[27]

In regard to magnet schools, Official Interpretation #5, states the following:

> This section [Section 440(b)(2)(B)] allows a student to be eligible in athletics the first year he has the opportunity to transfer to a magnet school. If the student leaves the magnet school and returns to the school of the parents' residence, the student is not eligible for varsity athletic competition for at least one year from the date of his enrollment in the home school.[28]

The rules of the UIL pertaining to participation in academic and music contests are delineated in the UIL Constitution, Chapter M, Sections 420 and 430 respectively. Like the provisions regarding varsity athletic competition, eligibility is contingent upon the fact that the student did not change schools for the purpose of music or academic competition, among other factors. (See Appendix B for the text of these sections.)

FINANCIAL CONSIDERATIONS

The availability of financial resources are a consideration and a boundary in the development of any type of policy. Open enrollment is clearly no exception. There is much disagreement among both the advocates and opponents of open enrollment strategies as to the costs of such a program. On one hand, is the claim that open enrollment policies will not require funding in excess of that presently available to school districts. By contrast, others contend that open enrollment policies are very expensive and require substantial additional funding.

Among the districts around the nation implementing open enrollment policies, the most frequently identified cost item is that of transportation. Another cost item is the renovation of school buildings because parents are unlikely

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27 *Constitution and Contest Rules of the University Interscholastic League 1990-1991*, 81st edition, Official Interpretation #4 of the State Executive Committee, pp. 365-366.

28 *Constitution and Contest Rules of the University Interscholastic League 1990-1991*, 81st edition, Official Interpretation #5 of the State Executive Committee, p. 366.

to choose a school housed in a dilapidated building, no matter how attractive its educational program. With regard to magnet schools, costs are related to the purchase of specialized equipment and the costs of hiring and retaining specialized teachers. Administrative costs associated with open enrollment policies include communications costs related to informing parents of their choices, increased clerical costs to process and maintain enrollment information, and the costs of planning and developing the policy. Texas districts are also likely to incur these types of costs. According to the *1987-88 Accountable Costs Study* the annual estimated investment level for renovation of school buildings statewide is $144.5 million for each of the five years between 1988 and 1992.[29] As indicated earlier, the demographic and socioeconomic profile of districts with multiple campuses also suggests that some transportation and communications costs will be unavoidable. In her testimony to the Open Enrollment Advisory Committee, Dr. Shugart of Garland ISD also indicated that open enrollment plans result in additional costs, particularly transportation costs.

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29 *1987-88 Accountable Costs Study*, pp. 34-35.

CURRENT STATUS OF OPEN ENROLLMENT IN TEXAS

INTRODUCTION

A variety of open enrollment strategies are in practice within Texas school districts. Along with intradistrict open enrollment strategies such as the controlled-choice model and magnet schools, districts are also party to contracts for vocational education programs, concurrent enrollment arrangements with institutions of higher education, and interdistrict transfers.

While nearly all districts can enhance the choices afforded to students and their families through contracted programs, concurrent enrollment arrangements, and interdistrict transfers, the number of districts which can implement an intradistrict open enrollment policy is more accurately reflected by the number of districts with multiple campuses at any or all grade levels. That being the case, 215 of the 1,058 districts in Texas could implement an intradistrict open enrollment policy. Specifically, 61 Texas districts have multiple campuses at the high school, junior high, and elementary school levels, another 30 districts have multiple junior high and elementary campuses, and 124 have multiple elementary campuses only. During the 1989-90 school year, these 215 districts accounted for nearly 2.6 million of the approximately 3.3 million school children in Texas.

Districts without multiple campuses at any grade level could conceivably implement a choice model similar to the schools of choice model by offering a variety of programmatic approaches all housed on the same campus. For example, a school could provide a Montessori arrangement along with a traditional elementary school arrangement.

The following sections provide information on incentives and authority for intradistrict open enrollment, the current status of intradistrict open enrollment strategies in Texas, and other public school choice strategies being implemented by Texas districts. Sections of the Texas Education Code and the Texas Administrative Code, cited in this material are provided in Appendix B.

INCENTIVES AND AUTHORITY FOR INTRADISTRICT OPEN ENROLLMENT

The 71st Texas Legislature provided an incentive for intradistrict open enrollment strategies through the amendment of Texas Education Code Section 11.27 regarding innovative programs. This statute now provides state funding and waiver of conflicting state statutes and rules to districts for the implementation of innovative programs including student and parental choice among public schools and magnet schools.[30]

In addition to the incentives offered by Section 11.27, TEC Section 21.074 provides the authority for districts to transfer or assign students to school facilities and classrooms. This provision, along with TEC Section 21.075

[30] Texas Education Code Section 11.27. See also Texas Education Code Section 11.271.

further states that transfers and assignments may not be made by a general or blanket order but must be made upon an individual basis. Among the factors to be considered in the assignment, transfer, or continuance of an individual student is the "choice and interest of the pupil[.]"[31]

INTRADISTRICT OPEN ENROLLMENT

State statute and rule do not prohibit intradistrict open enrollment policies. However, some districts' enrollment strategies are within the purview of judicial review as a result of desegregation efforts.

The Texas Education Agency surveyed a sample of 55 of the 215 Texas districts with multiple campuses in September 1990. Of the 49 districts responding to the survey, five districts (10.2 percent) reported having an open enrollment policy. Of the five districts with open enrollment policies, two districts offered choice at the PK/K-6 grade levels and three at the PK/K-12 grade levels. Three of the five districts also provided any needed transportation to students' chosen school.

Along with the five districts with open enrollment policies, 19 of the 49 districts responding to the survey (38.8 percent) offer magnet programs. While the Agency does not systematically collect data regarding the number of districts with magnet programs, it is generally perceived that magnet programs are becoming an increasingly popular strategy among Texas school districts.

In addition to the districts implementing open enrollment policies and including a number of those offering magnet programs, 42 of 49 districts (85.7 percent) reported having a within-district transfer process in place. Of the districts with transfer policies, the number and types of transfers granted varied widely. Most of the districts' transfer policies were quite broad, including transfers made for the purpose of families' convenience. Nearly all districts allowed transfers for programmatic, hardship, and medical reasons. The reasons most often cited as cause for denying transfers were lack of space at the requested campus and disruption of ethnic balances. The numbers of students granted transfers for the 1990-91 school year ranged from less than 10 to more than 30,000 depending on the district's size and transfer policy. Sections 21.077 and 21.078 of the Texas Education Code outline the parental right to petition for the transfer or assignment of their child to a particular school and the procedures for hearing, action, and appeal of such a petition.

Although transfer policies are not open enrollment policies, per se, the number of districts allowing transfers and number of students taking advantage of the opportunity to transfer along with the number of districts with open enrollment policies or offering magnet programs is an indication of the extent to which intradistrict choice is being exercised in Texas. While 6,124 students exercised the option to choose among the public schools and districts of Minnesota for the 1990-91 school year, 31,320 students were granted

31 Texas Education Code Section 21.075(a)(15).

transfers for the 1990-91 school year in the Houston Independent School District.[32]

OTHER PUBLIC SCHOOL CHOICE STRATEGIES EMPLOYED IN TEXAS

Although this document focuses on open enrollment within public school districts, the following is a brief presentation of other public school choice and choice-related strategies which are currently being employed by Texas' school districts. In some cases, an indication of the number of districts employing a particular strategy has been provided. However, in areas for which no reliable data were available, descriptions lack documentation of the number of districts implementing the strategy.

Concurrent Enrollment Arrangements

Districts can expand the curricular options available for students and their families through concurrent enrollment arrangements with institutions of higher education. Concurrent enrollment is defined as an arrangement by which students are awarded both high school and college credit for completing college-level courses. Of the 49 districts responding to the survey conducted by the Texas Education Agency, 37 (76 percent) indicated that they have concurrent enrollment arrangements.

Title 19, Section 75.167 of the Texas Administrative Code addresses the awarding of high school credit for college courses. This rule specifies that college courses for which high school credit is awarded must be provided by institutions of higher education that are accredited by one of a list of regional accrediting associations; that the student have the approval of the high school principal or other school official designated by the district; and that the course must provide advanced academic instruction beyond or in greater depth than the essential elements. The rule also states that districts may use "a variety of means to determine to what extent the essential elements are provided."[33]

Under another provision of Title 19 of the Texas Administrative Code, the commissioner of education is authorized to establish pilot and demonstration projects for concurrent enrollment of high school students in institutions of higher education.[34] The commissioner is also authorized by subsection (c) of Section 77.26 to waive rules of the State Board of Education when justified by the district as necessary to facilitate the implementation of a concurrent enrollment project.

The most recent state-level initiative regarding concurrent enrollment, Section 21.116 of the Texas Education Code, directs the commissioner of education and the commissioner of higher education to jointly develop recommendations for a statewide program allowing public high school students

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[32] Statistics for the State of Minnesota were provided by the Minnesota Department of Education. Statistics for the Houston Independent School District were provided by the Houston Independent School District.

[33] Title 19 Texas Administrative Code Section 75.167(b).

[34] Title 19 Texas Administrative Code Section 77.26.

to enroll in courses in postsecondary institutions for both high school and college credit. These recommendations will be made to the 72nd Texas Legislature.

Interdistrict Transfers

Both the Texas Education Code and the rules promulgated by the State Board of Education provide for interdistrict transfers. However, interdistrict transfers in Texas are also subject to limitation under Civil Action 5281.

By state law, any school-age student may transfer at the beginning of the scholastic year to another Texas district provided that both the receiving district and the student's parent agree in writing to the transfer, with the state's share of funds following the student and any tuition charged by the receiving district being limited to costs in excess of the state aid transferred.[35] In addition, any child entitled to attend a school district situated on the border of a neighboring state may attend school in the other state, with state funds transferred to the receiving district and any additional tuition paid by the Texas district of residence. Finally, the boards of trustees of two or more adjoining districts may by mutual agreement arrange for the transfer or assignment of a student from one district to another with a commensurate transfer of "school funds or other payments."[36] Factors to be considered in the arranging of transfers or assignments by mutual agreement of boards of trustees include consideration of the "choice and interest of the pupil."[37] State Board of Education rules pertaining to transfers of pupils and funds are delineated in Title 19 of the Texas Administrative Code, Sections 61.63, 105.25, and 105.26

Public education in the State of Texas has been operating since 1971 under a statewide school desegregation order commonly referred to as Civil Action 5281.[38] Student transfers between districts are generally prohibited when the cumulative effect in either the sending or receiving school or school district will impede or reduce desegregation, or reinforce or renew racially discriminatory practices. Under the court order, a transfer between districts is prohibited if the transfer will change the majority or minority balance of the district's student population by more than one percent or will change the ethnic balance of the campus by more than five percent. Three types of exceptions to this prohibition are as follows: (1) transfers of deaf students, (2) transfers of special education students, if an appropriate placement is not available in the district of residence, and (3) situations of hardship. Hardship situations are limited to include only transfers for the purpose of taking academic courses not offered in the district of residence, graduating seniors who have attended the receiving district for the two immediately preceding school years, working parents' problems with child care arrangements for children who are less than 10 years old or are handicapped, health and safety reasons as certified by a medical doctor, the children of employees of

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35 Texas Education Code Section 21.061.

36 Texas Education Code Section 21.079.

37 Texas Education Code Section 21.075(a)(15).

38 *United States v. Texas*, Civil Action 5281, (E.D. Tex. August 9, 1973) is based upon enforcement of Title VI of the Civil Rights Act of 1964. Although the order has been in effect since 1971, Section A was modified significantly in 1973 as reflected by the date of the citation.

the receiving district, and situations in which the net difference between the students home school and receiving school is more than 20 miles.

Under Civil Action 5281, the Texas Education Agency is charged with approving all interdistrict transfers and monitoring districts' ethnic balances. Accordingly, rules contained in 19 TAC Section 105.24 outline the procedures for implementation of Civil Action 5281. Under these procedures, all districts file applications for transfer received prior to May 1 of a given year with the Agency and are advised by July 15 if the proposed transfers will cause them to be in violation of Civil Action 5281. For the 1989-90 school year, 233 school districts were notified that proposed transfers would result in changes greater than one percent. All transfers denied due to disruption of ethnic balances may apply to the Agency for a hardship transfer as described above. Hardship transfers are reviewed and approved by the Agency on a case-by-case basis.

Contracted Vocational Education Programs

Under state law and State Board of Education rule, districts may expand the vocational curricular choices afforded to students through contractual arrangements. Section 21.1111 of the Texas Education Code authorizes school districts to contract with other districts, public or private postsecondary educational institutions, or trade and technical schools which are regulated by the Agency to provide vocational classes.

Section 78.41 of Title 19 of the Texas Administrative Code (TAC) further qualifies that trade or technical schools must be approved or accredited by the Agency or other authorized state accrediting or licensing agency. In addition, any entity with which a district contracts must have adequate physical facilities and qualified instructional staff and must be able to provide instruction at the secondary level within the regular public school day. A state allotment is provided for contracted vocational education programs in accordance with TEC Section 16.155, although districts negotiate the actual contract amount per student with the contracted agency. Finally, Section 16.156 of the Texas Education Code along with Title 19 TAC Sections 85.173 and 85.187 provide an allotment to support the transportation of students in contracted vocational education courses.

APPENDIX A

DEMOGRAPHIC PROFILES

DEMOGRAPHIC PROFILE OF TEXAS DISTRICTS WITH MULTIPLE CAMPUSES
AT ANY OR ALL OF THE ELEMENTARY, JUNIOR HIGH, AND HIGH SCHOOL LEVELS

Table 1
District Average Daily Attendance (ADA)

ADA	Number of Districts	Percent of Districts	Percent of Districts Statewide
More than 50,000	6	2.8	0.6
25,000 - 49,999	15	7.0	1.4
10,000 - 24,999	44	20.5	4.2
5,000 - 9,999	41	19.1	3.9
3,000 - 4,999	72	33.5	8.7
1,600 - 2,999	21	9.8	10.9
1,000 - 1,599	8	3.7	11.8
500 - 999	8	3.7	19.7
Less than 500	0	0.0	38.9
Total[39]	215	100.1	100.1

Table 2
Minority Percentage of Total Enrollment

Minority Percentage	Number of Districts	Percent of Districts	Percent of Districts Statewide
50% or greater	69	32.1	23.3
30% to less than 50%	62	28.8	21.7
20% to less than 30%	33	15.3	13.5
10% to less than 20%	29	13.5	19.1
5% to less than 10%	15	7.0	11.6
Less than 5%	7	3.3	10.8
Total[39]	215	100.0	100.0

[39] Columns containing percentages may not add to 100.0 due to rounding.

Table 3
Low Income Percentage of Total Enrollment

Low Income Percentage	Number of Districts	Percent of Districts	Percent of Districts Statewide
80% or greater	13	6.0	5.2
60% to less than 80%	23	10.7	11.2
40% to less than 60%	38	17.7	27.9
30% to less than 40%	42	19.5	21.3
20% to less than 30%	47	21.9	20.0
Less than 20%	52	24.2	14.5
Total[40]	215	100.0	100.1

Table 4
Student Density - Average Daily Attendance (ADA) Per Square Mile

ADA Per Square Mile	Number of Districts	Percent of Districts	Percent of Districts Statewide
100 or greater	82	38.1	8.8
20 to less than 100	65	30.2	11.1
5 to less than 20	45	20.9	26.4
Less than 5	23	10.7	53.8
Total[40]	215	99.9	100.1

[40] Columns containing percentages may not add to 100.0 due to rounding.

DEMOGRAPHIC PROFILES OF SELECTED DISTRICTS FROM OTHER STATES

East Harlem, New York - Community School District #4

Community School District 4 in Manhattan's East Harlem is one of 32 community school districts in New York City. East Harlem's total population of approximately 113,000 resides within a 2.2 square mile area. The student population of Community School District 4 mirrors this community. Students are served at the elementary and junior high levels. High schools are controlled through a citywide district rather than through the community school districts.

Table 1
Demographic Profile of District 4 Student Population

Total Enrollment	14,353 Students
Ethnicity	
Black	35.4%
Hispanic	59.8%
White	4.3%
Asian	0.5%
Low Income	78.0%
Limited English Proficient	9.8%

Source: Manhattan Institute for Policy Research, 1989

The school district operates 44 schools in 20 buildings. One of the characteristics that makes District 4 unique is that a school is not equivalent to entire building or campus; rather, a school is defined as an educational program organized around a central theme and headed by either a director or principal. District 4's elementary schools are, for the most part, traditional zoned elementary schools. The district does operate five alternative elementary schools; each of these schools has a unique theme and accepts applications from all interested parents. The district's 24 junior high schools are all open-zoned schools, which do not rely on a geographically designated population. Junior highs accept applications from all interested parents. Some of the schools are organized around particular themes; others are traditional junior high schools.[41]

[41] Information pertaining to District 4 was obtained from the Manhattan Institute for Public Policy's Education Policy Paper Number 1, *Model for Choice: A Report on Manhattan's District 4*.

Montclair, New Jersey

Montclair is an urban school system located 12 miles from New York City. It is primarily a residential community in which most of its working population commutes to New York or Newark. Its median income is above the state average, and approximately 40 percent of its residents hold college degrees.

Table 2
Demographic Profile of Montclair's Student Population

Total Enrollment	5,104 Students
Ethnicity	
Black	43.0%
White	51.0%
Other minority	6.0%
Low Income	19.2% (elementary and junior high only)
Limited English Proficient	not available

Source: Educational Testing Service, 1990

The school system contains six elementary schools, two middle schools, and one high school. The special focus programs are gifted and talented, fundamental, international, science and technology, and a recent Montessori program within one of the fundamental schools. All schools, however, have a basic core curriculum that is consistent across grade levels. About 1 in 5 of the community's school-age children attends a private or parochial school, compared with the national average of 1 in 10.

Montclair's magnet system is considered a voluntary plan in that parents and students select a school, rather than being assigned to one. More than 95 percent of parents receive their first choice of schools. The school district provides transportation for all students. Extensive renovation of school sites accompanied the development of the program.[42]

[42] Information pertaining to Montclair, New Jersey was obtained from an Educational Testing Service policy information paper entitled, *Choice in Montclair, New Jersey*, 1990.

Richmond, California

The Richmond Unified School District consists of approximately 110 square miles and serves a population of 31,267 students in the West Contra Costa County area.

Table 3
Demographic Profile of Richmond's Student Population

Total Enrollment	31,267 Students
Ethnicity	
Black	36.2%
White	31.9%
Hispanic	14.6%
Asian	16.9%
Other minority	0.4%
Low Income	72.0%
Limited English Proficient	not available

Source: Richmond Unified School District, 1990

Considerable renovation has accompanied the implementation of the system for choice. In all, 36 schools have been renovated to some degree with plans for the renovation of another high school site. Twenty-one of these schools were renovated during the summer of 1989 through a $900,000 renovation and remodeling program.

Gains in student achievement were evidenced for the 1987-88 and 1988-89 school years at the third and sixth grade level, reversing a trend of declining test scores. Unexcused absences and suspensions have dropped as well.[43]

[43] Information pertaining to Richmond Unified School District was obtained from materials produced by the district and through a telephone conversation with district administrative staff.

APPENDIX B

EXCERPTS FROM STATUTE AND REGULATION

S.B. Section 2.31

The State Board of Education shall appoint a committee composed of legislators, educators, and private citizens to study the advisability and feasibility of open enrollment within school districts. The board shall report the results of the study to the 72nd Legislature with any recommendations for legislation.

TEC Section 11.27 Innovative Programs

(a) The State Board of Education shall establish a process under which programs developed by school campuses may be approved, notwithstanding lack of compliance with other statutory requirements, to demonstrate innovate educational practices.

(b) Innovate programs that may be approved under this section include, but are not limited to, programs relating to:

(1) school year restructuring;
(2) alternative learning environments;
(3) parental literacy;
(4) decentralization of organizational decisions;
(5) instructional technology;
(6) student and parental choice among public schools;
(7) child care;
(8) early childhood education;
(9) an extended school day;
(10) teacher and administrator development;
(11) continuous progress education;
(12) student-teacher ratios below 22:1 in elementary grades;
(13) use of elementary school guidance counselors, social workers, and other personnel in successful dropout prevention programs;
(14) career development for students;
(15) bilingual training;
(16) the generation of more effective parental involvement with the schools;
(17) school-age latch-key children;
(18) volunteer efforts with the private sector;
(19) coordination of school activities with community health and human services programs and other community resources;
(20) magnet schools;
(21) interdisciplinary curriculum;
(22) peer tutoring;
(23) counseling of families of at-risk students; and
(24) comprehensive coordination with health and human service delivery systems.

(c) Innovate program applications shall initially be selected on a competitive, peer review basis by the program advisory committee established under Section 11.271 of this code, with final approval by the State Board of Education and, if the program requires the expenditure of state funds, the Legislative Education Board.

(d) A school campus's application for approval of a program under this section must include substantial evidence that the campus has adequately planned the program and that the application has been approved by the district's board of trustees.

(e) The approval by the State Board of Education of an application under this section that requires the expenditure of state funds is ineffective unless the Legislative Education Board approves the expenditure of state funds for the program under the authority of Article XVI, Section 69, of the Texas Constitution.

(f) If an innovative program proposes a deviation from a requirement or prohibition imposed by state law or rule, final approval of the program constitutes a waiver of the requirement or prohibition for the duration of the program. A prohibition on conduct that constitutes a criminal offense may not be waived.

(g) A school campus with an approved innovative program receiving funds under Section 11.271 of this code shall report on the progress of the program to the Central Education Agency not later than September 1 of each year after the school year that the funding is received and upon completion of the program.

(h) The Central Education Agency shall evaluate each program's effectiveness and shall report its findings to the Legislative Education Board and to the State Board of Education not later than December 1 preceding each regular session of the legislature.

TEC Section 11.271 Public Education Development Fund

(a) The public education development fund is an account in the General Revenue Fund. The comptroller of public accounts may receive gifts and grants for the public education development fund.

(b) Funds that may be credited to the public education development fund include gifts, grants, and legislative appropriations.

(c) The State Board of Education shall administer the public education development fund.

(d) Each fiscal year, the board, after deducting the cost of administration not to exceed an amount set by appropriation, shall make disbursements from the public education development fund to the Educational Economic Policy Center in a total amount approved by the Legislative Education Board. The board shall disburse the remainder of the fund to eligible school campuses.

(e) To be eligible for a disbursement from the public education development fund under this section, a school campus must have an approved innovate program application under Section 11.27 of this code. A campus may use funds received under this section for the approved innovative program only.

(f) A gift or grant to the public education development fund that provides the terms of its disbursement may be distributed only as specifically provided by the terms of the gift or grant.

(g) Seventy percent of the funds disbursed under this section must be for projects designed to improve the academic achievement of low-performing students. Priority shall be given to projects submitted by campuses that have 60 percent or fewer students who perform satisfactorily on the criterion-referenced assessment instrument required under Section 21.551 of this code or that are otherwise low-performing campuses as defined by rule of the State Board of Education.

(h) From funds appropriated for the public education development fund, the comptroller shall issue warrants to the Educational Economic Policy Center and to each eligible school campus's school district in the amount certified by the board to the comptroller.

(i) The Educational Economic Policy Committee shall appoint a program advisory committee, composed of experts in policy research and disciplines that represent the center's purposes, to make recommendations to the State Board of Education and the Legislative Education Board on the use of the public education development fund.

TEC Section 13.352 Principals

(a) The principal of a school is the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role. Within guidelines established by each district administration, the principal shall organize the leadership structure in each school by using senior and master teachers and school administrators to develop instrumental teams.

(b) The qualification for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements. Supervised and approved on-the-job experience in addition to required internship shall be accepted in lieu of classroom hours. The qualifications for certification as principal shall emphasize:

(1) instructional leadership;
(2) administration, supervision, and communication skills;
(3) curriculum and instruction management;
(4) performance evaluation;
(5) organization; and
(6) fiscal management.

(c) An employment contract for a principal must be for either 11 or 12 months so that the principal has adequate time for planning and preparation.

(d) Each principal shall:

(1) approve all teacher and staff appointments for that principal's campus from a pool of applicants selected by the district or of applicants who meet the hiring requirements established by the district, based on criteria developed by the principal after informal consultation with the faculty;
(2) set specific education objectives for his campus, involving staff in the planning process;

(3) develop budgets for his campus;
(4) work with school professionals to prepare individual development plans; and
(5) attend in-service training relating to making district-level decisions provided under Section 13.049(b) of this code.

(e) The board of trustees of each district shall adopt a policy that provides for selected principals to periodically give verbal reports to the board.

(f) The board of trustees of a school district shall adopt a policy for the selection of a campus principal that includes qualifications required for that position.

TEC Section 16.155 Vocational Education Allotment

(a) For each full-time equivalent student in average daily attendance in an approved vocational education program in grades nine through 12 or in vocational education for the handicapped programs in grades seven through 12, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.37.

(b) For each full-time equivalent student in average daily attendance in an approved vocational education program under Section 21.112 of this code, a district is entitled to an annual allotment, beginning with the 1991-1992 school year, equal to the adjusted basic allotment multiplied by a weight established by the State Board of Education according to program component. Each weight established by the board must correlate to the costs per student of the program component. The average weight established by the board under this section for all program components in all districts may not exceed the greater of 1.45 or a weight provided by appropriation. The components for which the board shall establish weights are general vocational education, pre-employment laboratory, education for special needs students, and master plan initiatives. The board shall adopt the system not later than 30 days before the first day of each regular session of the legislature.

(c) The legislature by general law may adopt the weights adopted by the State Board of Education for any biennium. If the weights are not adopted, the weight contained in Subsection (a) of this section shall be utilized for the determination of vocational education allotments.

(d) In this section, "full-time equivalent student" means 30 hours of contact a week between a student and vocational education program personnel.

(e) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing vocational education programs in grades nine through 12 or vocational education for the handicapped programs in grades seven through 12 under the provision of Sections 21.111, 21.1111, and 21.112 of this code.

(f) the indirect cost allotment established under board rules shall first be effective for the 1991-1992 school year consistent with the weight effective that year.

(g) The commissioner shall conduct a cost-benefit comparison between vocational education programs and mathematics and science programs.

TEC Section 16.156 Transportation Allotment

(a) Each district or county operating a transportation system is entitled to allotments for transportation costs as provided by this section.

(b) As used in this section:

(1) "Regular eligible pupil" means a pupil who resides two or more miles from his or her campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as an eligible handicapped pupil.
(2) "Eligible handicapped pupil" means a pupil who is handicapped as defined in Section 21.503 of this code and who would be unable to attend classes without special transportation services.
(3) "Linear density" means the average number of regular eligible pupils transported daily, divided by the approved daily route miles traveled by the respective transportation system.

(c) Each district or county operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible pupil of operating and maintaining the regular transportation system and the linear density of that system. In determining the costs, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district or county. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The allotment per mile of approved route may not exceed the amount set by appropriation.

(d) A district or county may apply for and on approval of the commissioner of education receive an additional amount of up to 10 percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

(e) The state commissioner of education may grant an amount set by appropriation for private or commercial transportation for eligible pupils from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. The grants shall be made only in extreme hardship cases, and no grants shall be made if the pupils live within two miles of an approved school bus route.

(f) The cost of transporting vocational education students from one campus to another inside a district or from a sending district to another secondary public school for a vocational program or an area vocational school or to an

approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.

(g) A school district or county that provides special transportation services for eligible handicapped pupils is entitled to a state allocation paid on a previous year's cost-per-mile basis. The maximum rate per mile allowable shall be set by appropriation based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary. The commissioner of education may grant an amount set by appropriation for private transportation to reimburse parents or their agents for transporting eligible handicapped pupils. The mileage allowed shall be computed along the shortest public road from the pupil's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(h) The allocation for eligible regular students transported by the regular transportation system shall be increased by five percent for any district or county school board which has complied with the provisions of Section 21.173 of this code in accordance with rules adopted by the State Board of Education.

(i) Funds allotted under this section must be used in providing transportation services.

(j) In the case of a district belonging to a county transportation system, the district's transportation allotment for purposes of determining a district's foundation school program allocations under Section 16.157 of this code shall be determined on the basis of the number of approved daily route miles in the district multiplied by the allotment per mile to which the county transportation system is entitled.

TEC Section 21.061 Transfer of Student

Any child, other than a high school graduate, who is over 6 and under 21 years of age at the beginning of any scholastic year may annually transfer from his school district of residence to another Texas district, provided that both the receiving district and the applicant parent or guardian or person having lawful control of the child can jointly approve and timely agree in writing to transfer.

(b) Such a transfer agreement shall locally be filed and preserved as a receiving district record for audit purposes of the Central Education Agency.

TEC Section 21.074 Transfers in Discretion of Governing Board

(a) In conformity with the provisions of Sections 21.075-21.078 of this code, the board of trustees of any school district or any board of county school trustees shall have authority to transfer and assign any pupil or pupils from one school facility or classrooms to another within its jurisdiction.

(b) Such transfers may not be made by any general or blanket order but must be made upon an individual basis as specified herein.

(c) The authority herein granted may be exercised by the board directly or may be delegated by it to the superintendent of schools or to any other person or persons employed by the board.

TEC Section 21.075 Factors to be Considered

(a) In the assignment, transfer, or continuance of pupils among and within the schools, or within the classroom and other facilities thereof, the following factors and the effect or result thereof shall be considered, with respect to the individual pupil as well as other relevant matters:

(1) available room and teaching capacity in the various schools;
(2) availability of transportation facilities.
(3) effect of the admission of new pupils upon established or proposed academic programs;
(4) suitability of established curricula for the particular pupil;
(5) adequacy of the pupil's academic preparation for admission to a particular school and curriculum;
(6) scholastic aptitude and relative intelligence or mental energy or ability of the pupil;
(7) psychological qualification of the pupil for the type of teaching and associations involved;
(8) effect of the admission of the pupil upon the academic progress of other students in the particular school or facility thereof;
(9) effect of the admission of the pupil upon prevailing academic standards at a particular school;
(10) psychological effect upon the pupil of attendance at a particular school;
(11) possibility or threat of friction or disorder among pupils or others;
(12) possibility of breaches of the peace or ill will or economic retaliation within the community;
(13) home environment of the pupil;
(14) maintenance or severance of established social and psychological relationships with other pupils and with teachers;
(15) choice and interest of the pupil;
(16) morals, conduct, health, and personal standards of the pupil; and request or consent of parents or guardians and the reasons assigned therefor.

(b) The board or the person acting for the board shall not consider a factor in its evaluation any matter relating to the national origin of the pupil or the pupil's ancestral language.

TEC Section 21.077

Petition of Parent

The parent or person standing in parental relation to any pupil may by petition in writing either:

(1) request the transfer or assignment of the pupil to a designated school or to a school to be designated by the board; or

(2) file objections to the assignment of the pupil to the school to which he has been assigned.

TEC Section 21.078 Hearing; Action on Petition; Appeal

(a) Upon receipt of a petition of either type described in Section 21.077 of this code, the board shall:

(1) if no hearing is requested, act upon the petition within 30 days and notify the petitioner of its conclusion; or
(2) if a hearing is requested, designate a time and place for the holding of a hearing within 30 days.

(b) Whenever a hearing is requested, it shall be conducted by the board in compliance with the provisions of this section.

(c) Whenever a hearing is requested, it shall be conducted by the board in compliance with the provisions of this section.

(c) The hearing shall be final on behalf of the board except as specified in Subsection (f) of this section.

(d) The petitioner may present evidence relevant to the individual pupil.

(e) The board may conduct investigations as to the objection or request, examine the pupil or pupils involved, and employ agents, professional or otherwise, for the purpose of such examinations and investigations.

(f) The decision of the board, either with or without hearing, shall be final unless the pupil or the parent, guardian, or custodian of the pupil as next friend, shall file exception to the action of the board as constituting a denial of any right of the pupil guaranteed under the constitution of the United States.

(g) In the event exception is filed on the ground that the decision of the board constitutes a denial of a right of the pupil guaranteed under the constitution of the United States and the board does not within 15 days reconsider its final action, an appeal may be taken from the final action of the board, on that ground alone, to the district court of the county in which the board is located, in which event:

(1) the petition must be filed within 30 days from the date of the board's final decision;
(2) the petition must state the facts relevant to the pupil as bearing on the alleged denial of his rights under the constitution of the United States; and
(3) the petition must be accompanied by bond, with sureties approved by the clerk of the court, conditioned to pay all costs of appeal if the same shall not be sustained.

TEC Section 21.079 Transfers Between Districts or Counties

The boards of trustees of two or more adjoining districts or the boards of county school trustees of two or more adjoining counties may, by mutual agreement and under the same rules specified in Sections 21.075-21.078 of this code, arrange for the transfer and assignment of any pupil or pupils from the jurisdiction of one board to that of another, in which event the participating governing boards shall also agree to the transfer of school funds or other payments proportionate to the transfer of attendance.

TEC Section 21.1111 Contracts With Other Schools for Vocational Classes

(a) The board of trustees of a school district may contract with another school district or with a public or private post-secondary educational institution or trade or technical school, which is regulated by the State, as designated in the State Plan for Vocational Education or provide vocational classes for students in the district.

(b) A pupil who attends vocational classes at another school pursuant to a contract authorized in Subsection (a) shall be included in computations of average daily attendance by the school district in which he is regularly enrolled.

(c) Any agreement entered into under the provisions of the section shall be subject to the rules and regulations of the State Board of Vocational Education, and the cost to the State shall not exceed the cost that would result if the classes were operated by the school district entering into the agreement.

(d) The instructors and instructional materials and equipment utilized in the classes shall be subject to the approval of the Central Education Agency.

(e) The instructors teaching in private schools, which are contracting with public schools for instruction of public school students, shall be eligible for the same in-service teacher education opportunities provided by the State for public school teachers.

TEC Section 21.116 Postsecondary Enrollment Options

The commissioner of education and the commissioner of higher education shall jointly develop recommendations for a statewide program allowing public high school students to enroll in courses in postsecondary institutions for both secondary credit and postsecondary credit. The recommendations shall include a method for apportioning state funds for the student's education between the public school and the postsecondary institution. The commissioners shall report their recommendations to the 72nd Legislature not later than February 1, 1991.

TEC Section 21.930 District-Level Decision Process

(a) The board of trustees of each school district shall adopt a policy to involve the professional staff of the district in establishing and reviewing the district's educational goals, objectives, and major district-wide classroom instructional programs.

(b) The board shall establish a procedure under which meetings are held regularly with representative professional staff and the board or board designee.

(c) The board shall adopt a procedure, consistent with Section 21.904(a) of this code, for the professional staff within the district to nominate and elect the representatives who will meet with the board or the board designee as required under the provisions of this section. Two-thirds of the elected representatives must be classroom teachers. The remaining representatives shall be campus-based staff.

(d) This section does not prohibit the board from conducting meetings with teachers or groups of teachers other than the meetings described by this section.

(e) Nothing in this section shall be construed to limit or affect the power of a local school board of trustees to manage and govern the public free schools of this state.

(f) Nothing in this section shall be construed as creating a new cause of action or as requiring collective bargaining.

19 TAC Section 61.63 Transfers

(a) Policy. A school district shall transfer pupils to another Texas school district according to provisions of law and the regulations of the Texas Education Agency. (Reference Texas Education Code, Chapter 21, Subchapter C.)

(b) Administrative procedure. Transfers are made in accordance with Section 105.24 of this title (relating to Approved Transfer Pupils), Section 105.25 of this title (relating to Transfer of Average Daily Attendance for Distribution of the State Available School Fund), and Section 105.27 of this title (relating to Transfer of Average Daily Attendance when Schools are Consolidated or Contracted).

19 TAC Section 75.167 High School Credit for College Courses

(a) A school district board of trustees may adopt a policy that allows students enrolled in grades nine-12 to be awarded credit toward high school graduation for completing college-level courses. Such courses shall be provided only by institutions of higher education that are accredited by one of the following regional accrediting associations:

(1) Southern Association of Colleges and Schools;
(2) Middle States Association of Colleges and Schools;
(3) New England Association of Schools and Colleges;
(4) North Central Association of Colleges and Schools;
(5) Western Association of Schools and Colleges; or
(6) Northwest Association of Schools and Colleges.

(b) To be eligible to enroll and be awarded credit toward state graduation requirements, a student must have the approval of the high school principal or other school official designated by the district. The course for which credit

is awarded shall provide advanced academic instruction beyond or in greater depth than the essential elements in Subchapter D of this chapter (relating to Essential Elements - Grades Nine-12). Local districts may use a variety of means to determine to what extent the essential elements are provided.

19 TAC Section 77.26 Pilot and Demonstration Projects in Concurrent Enrollment in Institutions of Higher Education

(a) In order to implement increased educational opportunities for high school students, the commissioner of education may authorize the establishment of pilot and demonstration programs for concurrent enrollment of high school students in institutions of higher education.

(b) Programs shall be approved upon application by a school district and shall be based on a comprehensive plan prepared by the school district and the institution of higher education.

(c) When necessary to facilitate the implementation of a pilot or demonstration project, the commissioner of education may, when justified by the district, waive rules of the State Board of Education.

19 TAC Section 78.41 Vocational Education for Public School Students by Contract

(a) Any public school district, public or private postsecondary institution, or trade or technical school which is approved or accredited by the Central Education Agency or any other authorized state accrediting or licensing agency which has adequate physical facilities and qualified instructional personnel and is able to provide instruction at the secondary level during the regular public school day will be eligible to enter into contracts with public school districts for vocational instruction.

(b) Requirements for contracted instruction teachers are as follows.

(1) Contracted instruction teachers employed by public school districts, private postsecondary institutions, or trade or technical schools shall meet the certification requirements for public secondary teachers in Chapter 141 of this title (relating to Teacher Certification).

(2) Contracted instruction teachers employed in public postsecondary institutions shall meet the initial approval requirements for public secondary vocational teachers as prescribed by the Central Education Agency in Section 141.295 of this title (relating to Vocational Emergency Teaching Permits: Requirements and Procedures).

(c) Maximum per student allotments for vocational education by contract shall be determined in accordance with the Texas Education Code, Section 16.155. Districts shall negotiate the actual per student contract amount.

19 TAC Section 85.173 Vocational Program Student Eligibility

Rule

Regulations for determining eligibility for transportation of students in vocational education are as follows:

(1) the student must be assigned as a vocational student to another campus within a district, to another secondary public school or an area vocational school, or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency; and

(2) no student shall be eligible for transportation reimbursement for more than 175 days of any school year.

19 TAC Section 85.187 Vocational Services

Eligible vocational students may be transported by bus under the following conditions:

(1) Initial applications for funds shall be made annually to the Central Education Agency by September 20. Special requests should be made for state-approved programs initiated during the school year.

(2) Services provided to vocational students shall be on a campus-to-campus basis for either the full school day or any part of the school day. For reporting purposes, the route description shall show the bus to depart from the home campus, travel to the vocational campuses, and then return to the home campus.

(3) A final application form for funds shall be due annually on or before May 15.

(4) The commissioner of education shall reimburse school districts for the transportation of vocational education students based on the number of actual miles traveled times the district's actual cost-per-mile as shown on the previous year's transportation operation cost report.

19 TAC Section 105.24 Approved Transfer Pupils

(a) An approved transfer pupil is one who lives in one Texas school district an is approved to attend a school in another school district in Texas.

(b) Districts will be notified by July 15 by the State Funding Division whether or not proposed transfers as of May 1 will cause their district to be in violation of Court Order 5281. Districts which are in violation will not effect any transfers without prior approval of the Texas Education Agency.

(c) Districts notified that their proposed transfers as of May 1 will be in violation of Court Order 5281 may submit only extreme hardship transfers to the agency for approval.

(d) Hardship transfers (those after May 1) between districts not being notified of a possible violation of Court Order 5281 may be effected between districts involved; however, the hardship transfer forms must be on file with the receiving school district.

19 TAC Section 105.25 Procedure for Transfer

(a) Eligibility. Within the limits set out in this section, any child who is eligible to attend the free public schools of Texas at the beginning of the scholastic year may be eligible for a transfer from his or her district of residence to any other Texas school district.

(b) Requirement. Both the receiving school district and the parent, guardian, or other person having lawful control of the child must agree in writing to the transfer. The acceptance of transfers is subject to the policies of the board of trustees of the receiving district.

(c) Filing. To be valid, all transfers must be made on forms approved by the Central Education Agency and filed with the receiving district. A report on proposed transfers accepted by May 1 will be forwarded to the Central Education Agency, State Funding Division, prior to May 15. These reports will be used by the agency to determine the resulting ethnic ratio of each campus in each district based on the proposed transfers submitted by the districts.

(d) Tuition. The receiving district may require a tuition fee not to exceed the expenditure from local funds per pupil in average daily attendance. The expenditure from local funds per pupil in average daily attendance is determined by the local board of school trustees. Tuition which is greater than that charged in the previous year may not be charged unless it is specified in the transfer agreement.

(e) Transfer of students whose grades are not taught in the home district. A school district which does not teach all grades, K-12, remains responsible for the education of all eligible resident students.

(1) The school district shall arrange for students whose grades are not taught in the home district to be educated in one or more adjoining school districts. This arrangement shall be by written agreement between the boards of trustees of the school districts involved, in accordance with the Texas Education Code, Section 21.079.

(2) In accordance with the Texas Education Code, Section 21.063, the receiving school district may charge tuition for students transferred under this subsection.

(3) Students who do not wish to attend the receiving school district selected by their home district may transfer to another school district as individual student transfers in accordance with this section. For such students, the home district shall be responsible for payment of tuition not to exceed the amount per student which the district pays to the receiving school district with which it has a a written transfer agreement covering students in the same grade as the individual transfer student. Any tuition above that amount shall be paid by the student.

(4) In accordance with Section 85.182 of this title (relating to Regular Transportation), the Central Education Agency will approve the establishment of one or more bus routes to transport eligible students from the home district to one receiving school district. The establishment of routes to more than one receiving school district with which the home district has a written transfer agreement may be approved by the commissioner of education only in exceptional circumstances. Students transferred under this section as individual student transfers shall not be considered in the approval o bus routes; however, such students may ride the bus in the receiving school district and be counted as eligible students for transportation funding purposes if their home is at least two miles from the school which they attend in the receiving district. Bus routes shall not be extended to serve individual student transfers.

19 TAC Section 105.26 Transfer of Average Daily Attendance for Distribution of the State Available School Fund

(a) Policy. Any eligible scholastic may be transferred from one district to another. His average daily attendance will be transferred from the district he attended the previous year for the apportionment of the state available school fund and tuition may be charged.

(b) Administrative procedure. If the number of grades to be taught is reduced by the county board of school trustees, the average daily attendance earned by pupils in the grades no longer taught is subtracted from the district's prior year's average daily attendance. The average daily attendance of a pupil whose grade is no longer taught in his home district is individually transferred to the school to which he transfers.

UIL Constitution Section 400

Subject to the other sections of this subchapter, an individual is eligible to participate in a League varsity contest as a representative of a participant school if he:

(a) is less than 19 years old on September 1 preceding the contest (Section 401),

(b) is not a high school graduate (Section 402),

(c) is a full-time, day student in a participant high school (Section 403), See academic exception, Section 906(a)(3),

(d) has been in regular attendance at the participant school since the sixth class day of the present school year or has been in regular attendance for 15 or more calendar days before the contest or competition (Section 404),

(e) is in compliance with state law regarding grades and credit requirements, and rules of the State Board of Education,

(f) is enrolled in a four year, normal program of high school courses (Section 405),

(g) initially enrolled in the ninth grade not more than four years ago nor in the tenth grade not more than three years ago (Section 405),

(h) was not recruited (Section 5),

(i) did not represent a postsecondary institution in a contest,

(j) is not in violation of the Awards Rules (Sections 480 through 482), and

(k) meets the specific eligibility requirements for UIL academic competition in Section 420, for music competition in Section 430, and/or for athletic competition in Section 440.

UIL Constitution Section 420: Eligibility for Academic Contests

Subject to the other sections of this subchapter, an individual is eligible to participate in a League varsity academic contest as a representative of a participant school if he:

(a) meets all the requirements of Section 400;

(b) did not change schools for the purpose of participating in a UIL academic contest; and

(c) did not enroll in or audit a postsecondary course designed to prepare a student for League fine arts or academic contests (results in loss of eligibility only in those contest areas in which the student received such instruction).

UIL Constitution Section 430

Subject to the other sections of this subchapter, an individual is eligible to participate in a League varsity music contest as a representative of a participant school if he:

(a) meets all the requirements of Section 400;

(b) is an amateur (Section 431);

(c) did not change schools for the purpose of participating in a UIL music contest; and

(d) did not enroll in or audit a postsecondary course designed to prepare a student for League fine arts or music contests (results in loss of eligibility only in those contest areas in which the student received such instruction).

UIL Constitution Section 440

Subject to the other sections of this subchapter, an individual is eligible to participate in a League varsity athletic contest as a representative of a participant school if he:

(a) meets all the requirements of Section 400;

(b) is a resident of the member school district (Section 442), and a resident of the attendance zone in which the participant school he is attending is situated, or:

(1) has been continuously enrolled in and regularly attending the school for at least the previous calendar year if his parents do not reside within the school district's attendance zone; or

(2) is a transfer student to a school district or attendance zone lines being changed by the school board or other appropriate authority; or

(A) he is attending a school due to district or attendance zone lines being changed by the school board or other appropriate authority; or

(B) he transferred during the first year he had the opportunity to do so from a high school within a school district to the district's vocational high, a magnet school, or optional attendance area or

(3) is a transfer student from an 8 grade system not containing a high school, who transferred during the first year he had an opportunity:

(A) to select a high school with geographical boundaries contiguous to his K-8 school; or

(B) to a high school for which his K-8 school receives state transportation funds; or

(C) to the high school located nearest his residence.

(See Official Interpretations #4, 5, and 6, Appendix I.)

(c) has not participated in a college or university athletic practice session or test to reveal, demonstrate, or display athletic ability, (results in loss of all athletic eligibility).

NOTE: Any contest at which a higher admission fee is charged to college coaches than is charged to parents or other adults is considered to be a college tryout.

EXCEPTION: For purposes of receiving an athletic scholarship, a senior may participate in a college or university athletic tryout to test or reveal athletic ability under the following conditions:

(1) Students shall not practice with or against college athletes.

(2) Students shall not participate in a tryout on school time.

(3) Students must have permission from one parent or guardian, the in-season varsity coach, and the school principal.

(4) Students shall participate in no more than one tryout session per institution and no more than five tryouts in one sport.

(5) Students shall not try out in a sport until after the UIL season in that sport.

(6) UIL member school facilities shall not be used.

(7) Schools or coaches shall not provide transportation, equipment or defray expenses for students attending college tryouts.

(8) Students must try out on the campus of the college that is giving the scholarship, and the tryout must be supervised by an employee of that institution.

(d) did not enroll in or audit a postsecondary athletic or physical education course,

(e) did not move for athletic purposes (Sections 5,443),

(f) is an amateur (Section 441), and (See Official Interpretation #7, Appendix I.)

(g) was eligible according to Section 400 (d) (the fifteen day rule) and Section 440 (b) (the residence rule) at the participant school he wishes to represent prior to the deadline for district certification (results in ineligibility only in post-district competition in that sport).

UIL Official Interpretation #4

4. Section 440 (b)--Residence:

According to Section 440 (b), students wh have an option to attend more than one high school within a school district, rather than being assigned to a school according to attendance zones, are eligible at the school they first select. If a student subsequently changes to another school within that school district, he is not eligible for varsity athletic competition until he has been in and regularly attended that school for at least the previous calendar year.

UIL Official Interpretation #5

5. Section 440 (b) (2) (B)--Magnet Schools:

This section allows a student to be eligible in athletics the first year he has the opportunity to transfer to a magnet school. If the student leaves the magnet school and returns to the school of the parents'

residence, the student is not eligible for varsity athletic competition for at least one year from the date of his enrollment in the home school.

34 CFR Section 104.4

(a) *General.* No qualified handicapped person shall on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.*

(1) A recipient, in providing any aid, benefit, or service may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part with Federal financial assistance.

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COMPLIANCE STATEMENT

TITLE VI, CIVIL RIGHTS ACT OF 1964; THE MODIFIED COURT ORDER, CIVIL ACTION 5281, FEDERAL DISTRICT COURT, EASTERN DISTRICT OF TEXAS, TYLER DIVISION

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

(1) acceptance policies on student transfers from other school districts;

(2) operation of school bus routes or runs on a non-segregated basis;

(3) nondiscrimination in extracurricular activities and the use of school facilities;

(4) nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;

(5) enrollment and assignment of students without discrimination on the basis of race, color, or national origin;

(6) nondiscriminatory practices relating to the use of a student's first language; and

(7) evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, U.S. Department of Education.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

TITLE VII, CIVIL RIGHTS ACT OF 1964; EXECUTIVE ORDERS 11246 AND 11375; TITLE IX, 1973 EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 AMENDMENTS TO THE WAGE-HOUR LAW EXPANDING THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967; AND VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED IN 1974.

It is the policy of the Texas Education Agency to comply fully with the nondiscrimination provisions of all federal and state laws and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any programs or activities which it operates on the grounds of race, religion, color, national origin, sex, handicap, age, or veteran status (except where age, sex, or handicap constitute a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency makes positive efforts to employ and advance in employment all protected groups.

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