## Release Notes

### AEA Special Education Procedures & Documentation Guide

(January 15, 2013)

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<th>Topic (Manual pages)</th>
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<td>Open enrollment of eligible individuals pp. 211-214</td>
<td>Iowa Code allows parents who reside in one school district to make application to open enroll their child in any other Iowa school district. The January 15, 2013 release adds information related to the open enrollment of eligible individuals with specific emphasis on early childhood and open enrollment to districts with a virtual school option. See manual text</td>
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<td>Sample Educational Evaluation Reports (EERs) pp. 520-557</td>
<td>During the summer of 2012, a large sample of EERs from across the state was reviewed using an evaluation rubric. The same rubric has been applied to the sample EERs in the manual. In any circumstances where the samples did not meet the expectations of the EER review rubric, modifications were made to the samples.</td>
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Open Enrollment

Open Enrollment Application

Parents of a child enrolled in kindergarten to grade 11 or a child who will be entering kindergarten may request to enroll their child in a district other than their district of residence through the process of open enrollment. Applications for open enrollment of children who will be entering grades one through 12 must be submitted to the potential receiving district by March 1 for the following school year. Applications for open enrollment of children who will be entering kindergarten must be submitted to the potential receiving district by September 1.

Parents of a preschool, eligible individual may also request to open enroll their child in a district other than their district of residence to receive special education instructional services in a preschool, pre-kindergarten or early childhood special education program. Parents may not make application to open enroll their nondisabled preschoolers. Applications for preschool, eligible individuals must be submitted to the potential receiving district by September 1.

There are “good cause” exceptions to the application deadlines. Identification as an eligible individual is not one of them. See the Open Enrollment Handbook for additional information:


Open Enrollment Approval or Denial

When an open enrollment application is made, the potential receiving district considers whether it has adequate classroom space and, for eligible individuals, whether it can provide a free appropriate public education (FAPE) for the child. A potential receiving district may deny an open enrollment application if it does not have space or cannot provide an appropriate program.

If an open enrollment application is denied on the basis of inability to provide a FAPE, the potential receiving district must provide the parents with a Prior Written Notice (PWN) documenting the denial. PWN is not required if the denial is due to insufficient classroom space.

Open Enrollment: Responsibility for FAPE

Once a receiving district approves the open enrollment of an eligible individual, that district is responsible for providing or making provision for a FAPE until open enrollment ends:

"Open enrollment terminates when the student graduates, moves into the receiving district, moves out of state, moves into another Iowa district and chooses to attend the new resident district, attends an accredited nonpublic school, or drops out of school. If a student is placed temporarily in foster care, a juvenile detention center, a treatment facility, or similar placement, the open enrollment status will automatically be reinstated when the student returns."

If, after accepting an eligible individual through open enrollment, the receiving district determines that it cannot meet the needs of the child, the receiving district continues to be responsible for a FAPE, but may seek placement in another district.

"While a receiving district can deny open enrollment if it asserts it does not have an appropriate program, it cannot terminate open enrollment if it determines it does not have an appropriate placement. In that case, the child’s team must meet and select a new placement. Open enrollment would continue."
The open enrollment process, in all circumstances, requires parent application for open enrollment according to the specified deadlines. Open enrollment *does not apply* to the Statewide Voluntary Preschool Program (SVPP). A child who attends an SVPP or other preschool program (e.g., Head Start, private preschool) outside his or her resident district is *not*, solely by virtue of attending a preschool program in a district, open enrolled into that district.

Iowa currently has two districts (CAM and Clayton Ridge) that host virtual schools. Parents living in any other Iowa district may make application for open enrollment to one of these districts. Iowa's AEA Directors of Special Education have agreed upon a process to support decision making by the districts hosting virtual schools and to establish responsibility for support services. Also, the Iowa Department of Education (DE) has issued guidance regarding the open enrollment of eligible individuals into districts offering a virtual school option. A flow chart outlining the process and DE guidance may be found on the following pages.
Parents of a student with special education services apply for open enrollment to a district with Virtual School.

District with Virtual School informs receiving AEA of the student application.

District with Virtual School and receiving AEA review student IEP and other relevant information to determine if the district has adequate “classroom space” and the district and AEA can provide an appropriate program.

**No.** Either 1) inform parents that request denied on the basis of inadequate “classroom space”, or 2) provide parents prior written notice that the district cannot provide an appropriate program.

**Yes.** Receiving AEA communicates with sending AEA.

Receiving district sends IEP meeting notice.

An IEP meeting is convened (in most cases, virtually) including the parents, sending and receiving districts and sending and receiving AEAs.

Review IEP, revise as needed.

If the IEP includes AEA support services, sending and receiving AEAs establish service delivery arrangements, based on the IEP.
Iowa Department of Education Guidance Regarding Open Enrollment of an Eligible Individual to a District Offering a Virtual School Option

1. It is a violation of the IDEA to exclude categorically children with disabilities from open enrollment to virtual schools. The same variety of program options must be available to children with and without disabilities. [41.110]

2. It is a violation of the IDEA to determine access to or appropriateness of virtual schools based on a child’s “weighting.” Whether a virtual environment is appropriate to a child with a disability must be determined by the child’s needs, not by the child’s weightedness. [41.114(3)]

3. If a child’s IEP goals cannot be met in the virtual school, with or without supplementary aids and services or modifications, the virtual environment is not appropriate to the child. While virtual schools may be schools of choice, a family is not entitled to choose an inappropriate placement. [41.116(1) – placement must be based on IEP]

4. Virtual schools require a fresh look at “least restrictive environment.” While the LRE rules require children with disabilities to be educated with nondisabled peers to “the maximum extent appropriate”, the rules contemplate that there are multiple ways to teach children. If children without disabilities participate in a virtual school, and those children interact with children with disabilities who participate in a virtual school, then the virtual school is the general education environment. [41.114(2), 41.51(8)]

5. If a team determines that a virtual school is inappropriate to a child with a disability, then the child’s parents are entitled to prior written notice and have their procedural safeguards available to them. [41.503–.504]

6. The open enrollment rules require the following two-step analysis, to be completed by the child’s team, which must include representatives of the sending and receiving districts and the relevant AEAs. This is in addition to other open enrollment requirements (timely filing of application, etc.). [17.11]

   1. Is the receiving district able to provide an appropriate education, either in the virtual school or in a “brick-and-mortar” school, with or without supplementary aids and services or modifications? If yes, continue to question 2. If no, provide prior written notice.

   2. Is the receiving district’s virtual school able to provide an appropriate education, with or without supplementary aids and services or modifications? If yes, accept the application. If not, provide prior written notice and offer the district’s brick-and-mortar school.

7. Open enrollment rules provide that the director of special education of the AEA in which the receiving district is located resolves any dispute about whether the receiving district is appropriate, based upon evaluation data. The evaluation team must include a representative of the sending district that has the authority to commit resources. If a parent disagrees with the AEA director’s decision, that parent may invoke the IDEA’s procedural safeguards. [17.11]

8. The child remains in the sending district’s program while any dispute about the receiving district’s program is pending (items 3, 6, and 7). [17.11]

9. While this guidance is limited to choosing to open enroll to virtual schools, much of its analysis will apply to other distance learning/computer-based/virtual options. An eligible individual cannot be excluded from computer-based advanced courses simply because of the child’s disability. Certain differences in context may require change at the margins of the analysis (such as computer-based education for children with disabilities who have been expelled); however, the core of the analysis remains the same. [41.110]

10. As in all other open enrollment situations involving children requiring special education, the sending district is responsible for the actual cost of providing the virtual special education program. [17.11]

11. All virtual schools must meet all standards under the Administrative Rules of Special Education [Chapter 41].