



SAN DIEGO COUNTY OFFICE OF EDUCATION

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Superintendent of Schools

Rudy M. Castruita, Ed.D.

December 16, 2002

To: District Superintendents

From: Rudy Castruita, County Superintendent of Schools

Re: School Choice: Capacity Issues Under No Child Left Behind

The latest frequently asked question about No Child Left Behind (NCLB) is in regards to a district's obligation to admit students into schools that are at capacity. Our staff has compiled the following information on that topic for you.

NCLB requires school districts with schools identified as program improvement schools to provide students with the option to transfer to another school within the school district. Please see memo dated October 3, 2002.

The final regulations of NCLB were published on December 2, 2002. They explicitly state that school districts may not use lack of capacity as a reason to deny students the right to transfer under NCLB's school choice provision.

In a Press Release issued November 26, 2002, the U.S. Department of Education clarified districts take measures to ensure that capacity issues do not prohibit students from transferring as outlined in the NCLB requirements of school choice.

www.ed.gov/PressReleases/11-2002/regs_sum.html

Specifically the Press Release states:

The NCLB Act does not permit an LEA to preclude choice options on the basis of capacity constraints. Rather, the law requires an LEA to take measures to overcome capacity issues that otherwise might prevent the LEA from complying with Title I public school choice requirements. This could mean, for example, adding classes and hiring additional teachers so that the LEA can offer choices to students while adhering to state-mandate class size limits.

It is recommended that school districts begin the process of providing school choice and investigate all options available to them to comply with the requirements of NCLB while continuing to comply with California's class size reduction program. Districts that carefully document all steps taken will be prepared in case of a compliance review later on.

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I have included an article from www.cnn.com that addresses the issues of the difficulties associated with school choice.

As always, we will keep you informed of current issues and concerns as soon as we have information to pass along. Staff members available to assist you are Judy Walker, Lead Coordinator, Regional School Support and Improvement Center, (858) 292-3518, and Elaine (Irish) Hodges, Director, Special Projects and Accountability, (858) 292-3836. Please do not hesitate to contact them with your questions.

RC:NG:JW:DD

Attachment A: CNN Student News