

# CLIENT NEWS BRIEF

## California Decides Not to Require Public School Choice Transfers Under ESSA

Under Title I the Elementary and Secondary Education Act (ESEA) of 1965, as reauthorized by the No Child Left Behind Act (NCLB) in 2001, schools that failed to demonstrate sufficient annual progress toward established academic proficiency goals fell into program improvement (PI) status and were required to offer students transfers to other non-PI schools in or outside of the district. Such NCLB-driven transfers are commonly referred to as “public school choice” transfers. Occasionally, such transfers were accompanied by transportation.

The Every Student Succeeds Act (ESSA), however, which is the NCLB’s successor signed into law in December 2015, allows states to exercise flexibility in granting NCLB transfers for students enrolled in schools in PI status. Two guidance letters sent out by the U.S. Department of Education, in January and February 2016, respectively, explain states’ new flexibility under ESSA, under which states can determine not to require local educational agencies (LEAs) to offer public school choice transfers. The guidance provided that states choosing not to require LEAs to offer public school choice transfers must send an assurance letter to the U.S. Department of Education by March 1, 2016. The required assurances in the letter include timely and meaningful consultation with relevant stakeholders; publicly posting a transition plan no later than May 6, 2016; explaining in the transition plan how the state will ensure local educational agencies provide eligible students with alternative support to improve student outcomes; and the requirement that LEAs permit a student who previously transferred to another public school under NCLB to remain there until the child completed the highest grade in that school.

The California Department of Education (CDE) submitted an assurance letter on February 17, 2016, and developed a 2016-2017 transition plan that included actions California LEAs must take in lieu of providing transfers. In May, the California State Board of Education (SBE) approved the transition plan, which is available on [the CDE website](#).

For the 2016-2017 transition year, California school districts are no longer mandated to provide notice of public school choice transfer rights under federal law. Nor are they obligated to grant student transfers out of PI schools. However, if a student chooses to remain at the school they previously transferred to under the NCLB, the school district does not have authority to return the student back to his or her original school. Rather, school districts must permit students who transferred under NCLB out of a PI school to continue attending their current non-PI school through the highest grade level offered at that school, and districts must continue to provide transportation for those students if already doing so.

Please note, that neither ESSA nor California’s transition plan for federal law public school choice transfers have any impact on the various bases for student transfers under California law.

If you have any questions regarding this transition plan, or about the impacts

July 2016  
Number 41



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Number 41

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