

FREQUENTLY ASKED QUESTIONS AND ANSWERS

District Participation in School Choice

1. May a school committee vote to specify into which schools, grades, and programs it will admit students through school choice?

Yes. When determining capacity for admission of school choice students by June 1st for the upcoming school year, school committees may specify the schools and grades in which seats are available for non-resident students. See G.L. c. 76, § 12B(c). Therefore, it is permissible for a school committee to limit the admission of non-resident students through school choice to specific grades, programs, and schools.

It is important to note, however, that once a non-resident student is admitted through school choice, the school district must treat students admitted through school choice in the same manner as it treats students residing in the district. The basic premise of the school choice law is that a school choice student once admitted to the district must be treated in the same way a resident student is treated. Therefore, if students who reside in the district are permitted to transfer to other schools or programs within the district, then students admitted through school choice must also be permitted to transfer to other schools or programs in the district.

2. May a school committee rescind an earlier vote to participate in school choice?

It depends. If the new vote of the school committee occurs before June 1, it overrides the previous vote. Students who are already participating in the school choice program, or who were admitted prior to the new vote, have a right to continue attending school in the receiving district. If the new vote of the school committee occurs on or after June 1, it is ineffective and the district remains a school choice district for the upcoming school year.

3. May a school committee rescind an earlier vote to withdraw from school choice?

Yes. Consistent with statutory presumption that all school districts will participate in school choice, a school committee may rescind an earlier vote to withdraw from school choice. The new vote to participate in school choice need not occur prior to June 1st.

Provision of Information on School Choice

4. May a district advertise its status as a school choice district?

Yes. Advertising its status and seats available for admission is consistent with notifying potential applicants of the availability of seats and the process for admission through school choice. The Department annually updates and publishes the [list](#) of districts that participate in school choice on its website.

5. How should districts that participate in school choice inform potential applicants of the application process?

Districts participating in school choice are encouraged to publish the availability of school choice seats and the district's admission process and deadlines, including making such information readily available on the district's website. School districts must also must provide the information upon request.

6. Where can a family obtain information about how to apply through school choice?

Applicants should contact the district they want to attend for information on how to apply for school choice.

Admission and Continued Attendance of Students

7. Does a student need to be a Massachusetts resident to seek admission pursuant to G.L. c. 76, § 12B?

Yes. Admission through school choice is only open to residents of Massachusetts. See G.L. c. 76, § 12B(a) (definition of sending district). Additionally, a student must be a resident of Massachusetts to attend and to continue attending a receiving district through school choice.

8. Must a school district use a random selection process?

The statute requires a random selection process if there are more applications for admission than there are seats available. The statute also prohibits school districts from discriminating in the admission of any student on the basis of race, color, religion, national origin, sex, gender identity, age, sexual orientation, ancestry, athletic performance, physical handicap, special need, academic performance, or proficiency in the English language. G.L. c. 76, § 12B(j).

9. May a school choice district accept students at any time during the school year?

Yes, provided that there are fewer applicants than seats available for school choice students. If there are more applicants than seats available, the receiving

district must conduct a random selection process prior to July 1st and again, assuming there are seats available, prior to November 1st. Once names are selected during a random process, the district can maintain a waitlist of those names and admit students from that list during the year should seats become available. The same requirements regarding notice to the sending district apply to students admitted during the year as apply to students admitted before a school year begins. See the discussion under “student Selection Process” on page 2 of this advisory.

10. Must school districts establish a sibling preference policy when admitting students pursuant to G.L. c. 76, § 12B?

Yes. Under G.L. c. 76 § 12B(j), any sibling of a student currently attending school in the receiving district receives a preference for admission. Siblings are students who have a common parent, either biologically or legally through adoption. Children who live in the same household, such as step-siblings and foster children, and do not share a common parent are not siblings for purposes of receiving a sibling preference for admission. Students entitled to a sibling preference are those who have a sibling currently attending school in the receiving district when an offer of admission is made.

This preference is available to students who have a common parent regardless of whether the students live in the same household, whether the student currently attending was admitted as a resident student or through school choice, or whether the student currently attending will still be enrolled when the newly admitted student begins attending. The sibling preference is not available for students who do not share a common parent biologically or legally and live in the same household.

Receive Sibling Preference	Do Not Receive Sibling Preference
<ul style="list-style-type: none"> • Students who live in different households but share a common biological or legal parent • Siblings of students who will graduate at the end of the school year in which the admissions process occurs 	<ul style="list-style-type: none"> • Children who live in the same household but do not share a common biological or legal parent • Foster children without a common biological or legal parent • Step-siblings without a common biological or legal parent • Siblings of applicants accepted for admission who are not yet attending, including twins

The sibling preference applies only when one sibling is already attending in the school choice district. If siblings of the same family apply simultaneously and only one sibling is admitted, no preference is available for the sibling who has not yet been admitted.

11. How does sibling preference apply when a student is seeking to attend a regional vocational technical high school through school choice under G.L. c. 76, § 12B?

Siblings of students currently attending the regional vocational technical school seeking admission under G.L. c. 76, § 12B, must receive a sibling preference during the admission process for school choice. The sibling preference applies to regional vocational schools admitting students under G.L. c. 76, § 12B, in the same manner that it applies to all other schools.

12. May districts designate students as school choice who have not been admitted through the school choice process?

No. Only students admitted through the school choice process may be counted and reported as school choice students.

13. May a school district establish a preference for the children of school district or other municipal employees when admitting students through school choice?

No. A preference for admission on any basis other than for siblings is inconsistent with the random selection requirement in the statute. Outside of school choice, however, a school district may admit children of school district and municipal employees under G.L. c. 76, § 12. Also see FAQ No. 29. The receiving district is not eligible to receive school choice tuition for such students.

14. Without signed parental consent, may a receiving district contact a student's district of residence to obtain records?

During the application phase, the school choice district should not obtain or consider student records from the student's previous or current district. Once a student is admitted and accepts that offer of admission, however, the receiving district can request student records from the sending district as a matter of right under the student record regulations at [603 CMR 23.07\(4\)\(g\)](#). This regulation provides as follows.

(g) Authorized school personnel of the school to which a student seeks or intends to transfer may have access to such student's record without the consent of the eligible student or parent, provided that the school the student is leaving, or has left, gives notice that it forwards student records to schools in which the student seeks or intends to enroll. Such notice may be included in the routine information letter required under 603 CMR 23.10.

15. May a receiving district consider a student's disciplinary record prior to accepting a student?

No. A receiving district may not consider a student's disciplinary record during the admission process under G.L. c. 76, § 12B. In consultation with its lawyer, a district may consider beginning its own disciplinary process once a student is attending.

16. May a school district refuse to admit students through school choice who have been expelled from another school?

No. Prior to 2014, school officials had discretion to admit or not to admit a student who had been expelled. The disciplinary statutes were revised in 2014 and the language permitting public schools to refuse to admit expelled students was deleted. Therefore, public schools may no longer refuse to admit students because they were expelled from another school. While not addressing school choice explicitly, the [advisory](#) and [question and answers](#) on student discipline posted on the Department's website provide more detailed information about student discipline laws.

17. May a receiving district rescind an offer of admission based upon a student's disciplinary record?

No. A receiving district may not rescind an offer of admission based upon a student's disciplinary record. In consultation with its lawyer, a district may consider beginning its own disciplinary process once a student is attending.

18. How can a selective secondary school participate in school choice and still be "selective?"

Selective secondary schools in Massachusetts, which are primarily regional vocational technical schools, admit students pursuant to an admissions plan that has been approved by the Department. Participating in school choice under G.L. c. 76, § 12B, is an additional option for regional vocational technical schools that have seats not filled by resident students.¹⁰ School choice students are accepted after resident students who meet the minimum requirements for admission.

The admission of students through school choice under G.L. c. 76, § 12B, is a separate and distinct process from the admission of students to a regional vocational school pursuant to its selective admissions plan approved by the Department. If a regional vocational technical school admits students under G.L. c. 76, § 12B, it may not consider, among other characteristics, athletic

¹⁰ Inter-district school choice under G.L. c. 76, § 12B, is separate and distinct from the nonresident student tuition process under G.L. c. 74 and 603 CMR 4.00. There are significant differences between the two programs. Additional information regarding the nonresident tuition process may be found at <http://www.doe.mass.edu/cte/admissions/>.

performance, physical handicap, special need, or academic performance. An admissions process under G.L. c. 76, § 12B, is not a selective admissions process.

19. May a child who is too young to be eligible for kindergarten entry in his or her district be admitted through school choice as a kindergarten student in another district that has a different age standard?

Yes. If the child qualifies for admission to the receiving district, the district of residence must pay the school choice tuition for this student. Additionally, if the student returns to the district of residence after completing kindergarten, the district of residence must enroll this student like any other student enrolling in the district for the first time, including grade placement.

Example

Children in District A must be five years old by September 1st to enter kindergarten. Children in District B must be five years old by December 31st to enter kindergarten. Student 1 from District A, who does not meet District A's age requirement, enrolls in kindergarten in District B through school choice. District A is responsible for this student's tuition even though the student would not be eligible to enroll in District A. The fact that the sending district has a different kindergarten entry age is irrelevant under school choice, except to the extent that it may motivate families to seek enrollment of the child in another district. Additionally, should Student 1 return to District A for a subsequent grade, District A should enroll that student as it would any other student who moves into the district for the first time and seeks to attend school.

20. May a district admit students into pre-kindergarten through school choice?

Yes, districts may admit students into pre-kindergarten programs through school choice provided they follow the admission practices required for school choice and do so after admitting all resident students. Note, however, that receiving districts will receive school choice tuition only for those pre-kindergarten students who qualify for special education and have an IEP.

21. If a resident student moves from the district but wishes to continue to attend school there, may the district enroll this student through school choice? May the district provide this student an admission preference? May the district count this student as a school choice student?

Provided it participates in school choice, the district may enroll such a student if it follows the same process that it uses for all other non-resident students, including the provisions relating to public notice. The district, however, may not provide an admission preference to this student or admit this student ahead of other students who may wish to be admitted or who are on a waitlist. Alternatively, the school committee could allow the former student to continue to attend at no cost to the student's family or could enter into an agreement with the school committee of the

new district of residence to allow that student to attend at the expense of the new school district. See G.L. c. 76, § 12 (addressing agreements between school committees for the education of students), and FAQ No. 30. If the student is not admitted through school choice following the same process that it uses for all other non-resident students, the district cannot count the student as a school choice student, receive school choice tuition for the student, or otherwise “convert” the student to school choice.

22. What happens to a school choice student’s status if the student studies abroad independent of the school district’s programs or otherwise stops attending school in the receiving district?

The receiving district would unenroll the student if he or she stops attending school in the receiving district. The student no longer has a right to attend school in the receiving district. Instead, if seats were available and the student wished to attend again in the receiving district, the student would need to reapply and participate in the same application process as all other non-resident students. The receiving district cannot provide an enrollment preference to this student or admit this student ahead of other students.

23. May a receiving district approve a home schooling plan for a student who does not reside in the district?

No. Under G.L. c. 76, § 1, the student’s district of residence has authority to evaluate and approve home education plans. Such approval must occur in advance of withdrawing a student from school. See G.L. c. 76, § 1 (student of compulsory school age must “attend a public day [or some other approved school . . . but such attendance shall not be required of a child . . . who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee.”). Students who are home schooled in Massachusetts are considered to be privately enrolled.

Rights of Students

24. Must a student admitted under school choice reapply for admission in subsequent years?

No. Once a receiving district admits a non-resident student through school choice, that student has the right to remain in the receiving district, provided his or her enrollment is continuous, until he or she graduates from high school or completes the highest grade offered by the district. The right to continued attendance exists even if the school district decides that it will no longer participate in the school choice program.

25. Once a student is accepted through school choice, can the receiving district rescind the acceptance because of the student’s academic record?

No. A district may not rescind an offer of admission based upon a student's academic record because that would be discriminating based upon academic performance, a practice explicitly prohibited by the school choice statute at G.L. c. 76, § 12B(j).

26. Must a school choice district admit students with disabilities who may require out-of-district placements?

Yes. The school choice law explicitly states that applicants cannot be discriminated against on the basis of disability. School districts may not consider whether students have a disability or the nature of their disabilities in determining whether to admit them under G.L. c. 76, § 12B, and similarly may not rescind any offers of admission on the basis of a student's disability or needs.¹¹ Neither a sending district nor a receiving district may require a student who needs an out-of-district placement to unenroll from the receiving district or to re-enroll in the sending district. A student who is accepted through school choice is entitled to the same rights and privileges as if the student were a resident of the district. It is important to note that the school choice tuition for a student with disabilities is determined using a cost calculator similar to the one used for the circuit breaker program; this does not include the costs of evaluations for special education. The costs of evaluations are paid by receiving districts.

27. May a school choice student be disciplined, including suspension or expulsion, by the receiving district?

Yes. The same rules and process regarding discipline that apply to resident students also apply to non-resident students attending through school choice. See the Department's [discipline advisory](#) for additional information regarding student discipline. If a receiving district imposes discipline on a school choice student, it must provide alternative educational services. While a student always has the right to re-enroll in the district of residence, a receiving district may not "send a student back" to the district of residence following discipline or otherwise pressure a student to re-enroll in the district of residence.

¹¹ Under the special education regulations at [603 CMR 28.10\(6\)\(b\)](#), the school choice district must invite the district of residence to Team meetings "provided such participation [does] not limit the student's right to a timely evaluation and placement."

28. If a student who is participating in school choice becomes homeless, may the student continue to participate in school choice?

Yes. Students who are attending through school choice under G.L. c. 76, § 12B, have a right to continue attending as school choice students through the full course of curriculum. This is true irrespective of whether they become homeless, provided they continue to reside outside the district in which they attend school through school choice. In general, however, school choice students do not have a right to transportation.

Alternatively, the student may continue to attend in the school choice district as a homeless student under the federal McKinney-Vento Act. Under McKinney-Vento, students who become homeless have a right either to remain in their “school of origin” or to attend school where they are temporarily residing. The school choice district in which the student was attending school when the student became homeless is the “school of origin.” Homeless students who choose to remain in their school of origin have the right to remain there until the end of the school year in which they get permanent housing, and have additional rights to transportation. Detailed information regarding the education rights of homeless students can be found at <http://www.doe.mass.edu/mv/>.

School choice students who become homeless and who wish to remain in school in the receiving district may choose whether to continue attending as school choice students or whether to exercise their rights to continue attending in the school choice district under McKinney-Vento. While school districts should inform parents, guardians, and students of their rights, school districts may not pressure or otherwise encourage such students to make a particular choice or to give up their rights. The consequences of such a choice are significant. If the student chooses to continue to be a school choice student, they will not have access to transportation services. If the students chooses to continue attending under McKinney-Vento, they will have access to transportation but may not be able to continue attending school in the district beyond the end of the school year in which they get permanent housing.

29. May a homeless student seek admission through school choice?

Yes, a homeless student has the same right to seek admission through school choice as any other student who resides in Massachusetts.

30. May a district report to the Department a student as “school choice” solely because the student became homeless and resides temporarily outside the school district in which the student attends school?

No. School districts may only report students to the Department as “school choice” if the students have been admitted to the district through the admission process for school choice. Students may not be “converted” to school choice

solely because they live outside the district in which they attend school.

31. Are students placed in foster care by the Department of Children and Families school choice students?

No. Students who reside in a foster home are not school choice students on that basis alone. Students in foster care, however, may seek admission through school choice to districts other than those in which they live. Detailed information regarding the education of students in foster care can be found at <http://www.doe.mass.edu/sfs/foster/>.

32. If a student lives in two school districts and attends school in one of those districts, is that student a school choice student?

No. If a student lives in two separate residences because his or her parents share physical custody, irrespective of how that time is divided, the student may choose either location as the district of residence for purposes of attending school. That student is considered a resident of whichever district in which he or she chooses to attend school. Such students are not counted or reported as school choice students.

33. If a student lives in two school districts and applies to a third districts through school choice, which district of residence is the sending district?

Both districts of residence are sending districts and the school choice tuition is split between the two districts.

Transition between Schools

34. Does a student who attends an elementary or K-8 school district through school choice have an automatic right to progress with resident students to a regional high school?

No. Effective beginning with fiscal year 2020, school year 2019-20, a school choice student admitted to an elementary or K-8 district does not have a right to attend high school in a regional school district, including a regional vocational technical district. Because regional school districts are districts separate from municipal school districts, those districts separately determine whether to participate in school choice and, if so, into which schools, grades, and programs it will admit students through school choice.¹² If the regional school district operating the high school participates in school choice, a non-resident student may seek to attend the regional high school through school choice under G.L. c. 76, § 12B.

¹² Municipalities, as opposed to school districts, are the members of regional school districts. G.L. c. 71, §15.

Note: This is a change from the Department’s prior interpretation of the school choice statute, which advised that a non-resident student admitted through school choice had an automatic right to progress to a separate regional school district for later grades. In changing its interpretation, the Department carefully examined the plain language of the statute. Recognizing this shift, students currently admitted to or attending an elementary or K-8 district through school choice will continue to have an automatic right to attend through graduation from the regional school district, consistent with our past guidance. For future students who may seek admission through school choice, the Department now requires municipal school districts to provide clear, written notice that they will not have an automatic right to progress to the regional school district for later grades. This change takes effect starting with students admitted for fiscal year 2020, school year 2019-20.

Example

Student 1 lives in District A and, beginning in fiscal year 2020, attends school in District B through school choice. District B is a municipal school district and offers grades K-8. Municipality B, the municipality in which District B is located, is a member of a regional school district, District C, for grades 9-12. Student 1 does not have an automatic right to attend high school in District C. Student 1, however, may be able to attend high school in District C if District C participates in school choice and has seats available.

35. How does the right to attend a school choice district through high school graduation apply to a district that tuitions out students in higher grades to a school district that is not a school choice district?

Under G.L. c. 71, § 6, school committees of towns not maintaining a high school enter into tuition agreements for students to attend high school. The general premise of school choice is that a receiving district must treat a school choice student in the same way it treats a resident student. Therefore, the receiving district must tuition school choice students to high school in the same manner as it tuitions resident students. The high school into which students are tuitioned will charge the tuition for all students it receives to the K-8 district, including students who were attending the K-8 district through school choice. The K-8 district includes school choice students on its school choice reports and receives the school choice tuition from the students’ communities of residence.

Example

Student 1 lives in District A and attends school in District B through school choice. District B is a municipal school district and offers grades K-8. Municipality B is not a member of a regional school district. District B, therefore, tuitions its students into District C for high school. Student 1 has a right to attend high school in District C in the same manner as students who reside in District B. District C will receive the agreed-upon

tuition from District B, and District B will receive school choice tuition from District A.

Transportation and Other Tuition Arrangements

36. Must a school choice district provide transportation to non-resident students with disabilities?

Students who participate in the school choice program do not receive transportation services unless those services are included in a student's IEP. Specialized transportation is considered a "related service" under state and federal laws regarding special education and, if needed, should be included on the student's IEP. The receiving district would provide this transportation and the sending district would reimburse the receiving district for the cost of providing this service under G.L. c. 76, §12B(f).

37. May a school committee accept students from another school district on a tuition basis apart from school choice?

Yes. The school choice law does not affect G.L. c. 76 § 12, which states that

[a]ny child, with the consent of the school committee of the town where he resides, may attend, at the expense of said town, the public schools of another town, upon such terms as may be fixed by the two committees.

In addition, other statutes, including [G.L. c. 71B, § 4](#) (special education), and [G.L. c. 74, § 7](#) (non-resident vocational technical education),¹³ explicitly provide additional means for certain students to attend the schools in communities in which they do not live. School choice under G.L. c. 76, § 12B, is a separate program and does not affect these statutes.

38. May a school committee charge tuition for out-of-state residents?

Yes. School choice law under G.L. c. 76, § 12B, does not affect [G.L. c. 71, § 6A](#), which allows city, town, and regional school districts to admit non-Massachusetts residents on a tuition basis. That statute also allows school committees to vote to waive the tuition for such students.

¹³ Inter-district school choice under G.L. c. 76, § 12B, is separate and distinct from the nonresident student tuition process under G.L. c. 74 and 603 CMR 4.00. There are significant differences between the two programs. Additional information regarding the nonresident tuition process may be found at <http://www.doe.mass.edu/cte/admissions/>.