



*News from Commissioner Jeffrey C. Riley & the  
MA Department of Elementary and Secondary Education*

## **On the Desktop – May 3, 2019**

### **Re: School Choice**

Dear Superintendents, Charter School Leaders, and Assistant Superintendents,

The Department has published an updated legal advisory addressing inter-district school choice under G.L. c. 76, § 12B. That advisory can be found at [<http://www.doe.mass.edu/lawsregs/advisory/2019-0423glc76s12b.html>], on the “Education Laws and Regulations” page of the Department’s website under “Legal Advisories.” With one exception, the information in this advisory is not new. This advisory updates the previous advisory, issued in 1995, and compiles the numerous questions we have received and answered over the last few decades. As you will see in the Frequently Asked Questions (FAQs), it also touches upon topics such as special education, homeless students, vocational education students, and regional school districts as these topics relate to school choice.

The **one change** in the Department’s previous guidance and legal interpretation of the school choice statute, after much internal and external discussion over several years, is with respect to students enrolled through school choice in a district that has a limited grade span. The new guidance appears in the FAQ section of the advisory as follows:

#### **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.<sup>1</sup> 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.

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<sup>1</sup> 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.

Please note that, as stated above, **this change does not apply to students currently admitted to or attending an elementary or K-8 district through school choice.** It will take effect starting with students admitted for fiscal year 2020, school year 2019-20.

As you finalize budgets for the upcoming fiscal year and make decisions regarding inter-district school choice, we encourage you to review this advisory. Please do not hesitate to contact the Department through its Center for School & District Finance at [sfinance@doe.mass.edu](mailto:sfinance@doe.mass.edu) or the Office for College, Career, & Technical Education at [ccte@doe.mass.edu](mailto:ccte@doe.mass.edu) should you require additional information.

Sincerely,

Jeffrey C. Riley  
Commissioner