

## **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].