Does NCLB Provide Good Choices for Students in Low-Performing Schools?

By

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February 2004

This publication should be cited as:

Kim, J., & Sunderman, G. L. (2004). *Does NCLB Provide Good Choices for Students in Low-Performing Schools?* Cambridge, MA: The Civil Rights Project at Harvard University.

Additional copies of this report may be obtained from our website at:
http://www.civilrightsproject.harvard.edu

Produced with generous support from The National Education Association.

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ACKNOWLEDGMENTS

The authors of this report are grateful to numerous individuals for their assistance during the course of the study. Christopher Edley, Jr. and Gary Orfield provided leadership, counsel, and feedback on successive drafts of this report. We also thank many of our colleagues at the Civil Rights Project at Harvard University for their invaluable assistance in the production of the final report. Special thanks go to Marilyn Byrne, Laurent Heller, Cathy Horn, Al Kauffman, Michal Kurlaender, Lori Kelley, Chungmei Lee, Dan Losen, Patricia Marin, Jerry Monde, and Christina Safiya Tobias-Nahi. Several scholars on our NCLB Academic Advisory Board provided enormously useful comments, including Richard Elmore at Harvard University. Many graduate students and volunteers provided able research assistance, including Tim Bazzle, Maya Harris, Mei Mei Peng, and Chris Tracey. Jennifer Jellison Holme at UCLA provided us with a case study of NCLB implementation in Fresno Unified, and Jean Yonemura Wing at UC-Berkeley completed a case study of Los Angeles Unified. We thank district administrators and school leaders in Mesa Unified, Arizona; Washington Elementary District, Arizona; Fresno Unified, California; Los Angeles Unified, California; Chicago City Schools, Illinois; Buffalo City Schools, New York; New York City Schools, New York; Arlington County, Virginia; Richmond City Schools, Virginia; DeKalb County, Georgia; and Atlanta City Schools, Georgia. The support of the National Education Association (NEA), the Carnegie Corporation of New York and the Charles Stuart Mott Foundation are gratefully acknowledged. However, the views and opinions expressed in this report are solely those of the authors.

EXECUTIVE SUMMARY

Expanded schooling options for disadvantaged children is one of the four major principles of the No Child Left Behind Act (NCLB), representing the theory that competition will produce better educational opportunities for disadvantaged students and improve the performance of low-performing schools. Under NCLB, school choice is the first in a series of sanctions that are applied to schools failing to meet a state's adequate yearly progress (AYP) goals, which are based on students' reading and math scores for a given year. These low-performing schools are then required to offer their students the option to transfer to another public school that did make adequate yearly progress. With any new reform, it is important to understand the policy mechanisms that have been put in to achieve its stated goal.

To understand whether the NCLB transfer policy improved educational options for low-income and minority students, we examined the implementation of public school choice in ten urban districts— Mesa Public Schools and Washington Elementary District Schools, AZ, Fresno Unified School District and Los Angeles Unified School District, CA, Chicago Public Schools, IL, Buffalo Public Schools and New York City Public Schools, NY, Richmond Public Schools, VA, and Atlanta Public Schools and DeKalb County Schools, GA. This geographically, politically, and demographically diverse sample of districts provides a range of local contexts for studying the implementation of the NCLB transfer options.

This report is organized into three major sections. First, we examine the number of students who requested transfers and were offered the opportunity to move to a different school. Second, we explore the actual schooling options available to students attending schools that were required to offer choice. Third, we analyze the constraints districts faced in complying with the regulations governing the NCLB transfer option. Our analyses reveal three broad findings:

The NCLB transfer option was not widely used.

- In each of the ten districts in our study, fewer than 3% of eligible students requested to transfer to a different school.
- In two nation's largest school districts—Chicago and New York—thousands of students were eligible to transfer schools. In particular, 1.9% of eligible students requested transfers in Chicago, and only 2.3% of eligible students requested transfers in New York.
- No district in our study was able to approve all transfer requests. In general, districts with fewer transfer requests were more likely to grant transfers.
- Parents whose transfer requests were approved often chose to keep their children in the neighborhood schools. For example, in Fresno, only 62 of the 111 students (56%) whose transfer requests were approved actually moved out of their neighborhood school.

In the districts we studied, the NCLB transfer provisions failed to provide economically disadvantaged students with opportunities to move to schools with high achievement levels and low poverty rates.

- Schools that were chosen to accept transfers did not have substantially higher achievement levels or lower poverty rates, on average, than schools required to offer the NCLB transfer option. As a result, many students who transferred went from one school with low achievement levels to another with similarly low achievement levels.

Although urban districts have a disproportionately large number of schools required to offer transfers, the federal regulations governing choice make it difficult for these districts to create workable and effective transfer policies.

- A disproportionate number of schools offering transfers are located in urban school districts.
- These requirements impose major financial and administrative burdens on local officials while providing no additional funding to urban districts with the largest number of schools offering choice.
- The federal regulations governing the NCLB transfer policy created unreasonable rules that compel districts to implement choice by any means necessary even if it puts federal desegregation efforts at risk or strains the capacity of overcrowded schools.

INTRODUCTION

School Choice Under the No Child Left Behind Act

Under the No Child Left Behind Act (NCLB), districts are required to offer students in poorly performing schools the option to transfer to another school. This policy has the potential to bridge the divide between racially and economically segregated schools and middle-class schools if it allows large numbers of low-income and minority students to attend integrated schools with higher achievement levels. As noted civil rights lawyer William Taylor (2003) has observed, "properly implemented, this right to transfer can serve as a means for reducing racial and socioeconomic isolation and achieving for children the goals of desegregation" (p. 1755).

According to federal policymakers (U. S. Department of Education, 2002), transfer policies should ideally create "more choices for parents of children from disadvantaged backgrounds" (p. 9). Since expanded schooling options for disadvantaged children is one of the four major principles of NCLB, it is important to understand the policy mechanisms that have been put in to achieve the stated goal. Under NCLB, school choice is the first in a series of sanctions that are applied to schools failing to meet a state's adequate yearly progress (AYP) goals. These goals are based on students' reading and math scores for a given year. Low-performing schools that did not make adequate yearly progress are required to offer their students the option to transfer to another public school that did make adequate progress. Districts must decide which eligible schools will accept transfers and which eligible students will be allowed to change schools.

A well-designed choice policy that facilitates access to better schools has the potential to bridge the divide between schools segregated by race and poverty and more successful and integrated schools. However, if choice simply transfers students from one poorly performing school to another similar school, there is little chance for NCLB to expand the quality of schooling options for disadvantaged families. In light of the goals of the NCLB transfer policy, this report examines how the federal choice requirements have affected schooling options for minority and low-income students and how districts have translated the federal law into a working policy.

Lessons Learned from Magnet Schools and Inter-district Choice

To understand how choice programs could benefit minority and low-income students, we can learn from the nation's experiments with magnet schools and inter-district choice plans. Over the last quarter century, magnet schools and inter-district choice plans have represented two avenues for creating integrated schools. Both of these policies have benefited from government policies that created clear guidelines that enhanced minority children's access to high-performing schools. Started in the 1970s to promote school desegregation, magnet schools offered innovative curriculum and instruction, and attracted students from different racial and ethnic backgrounds. As a result, the federal courts strongly supported the creation of magnet schools as a voluntary means to desegregate schools. Congress also aided the expansion of magnet schools through the 1975 Emergency School Assistance Act (ESAA), which provided up to $30 million annually to magnet school programs between 1976 and 1984. From 1985 to 1991, the federal Magnet Schools Assistance Program (MSAP) gave 117 schools nearly $740 million to support magnet school programs (Blank, Levine, & Steel, 1996). One study found that districts receiving

MSAP had proportionately more magnet schools than districts which had not received MSAP funds (Steel & Levine, 1994). In sum, the legal and administrative support of the federal courts and the financial assistance of the federal government played a significant role in the development of magnet school programs that promoted both equity and excellence in the public schools.

More recently, researchers have underscored the importance of implementing transfer policies that bridge the deepening inequalities between urban and suburban school districts. In particular, inter-district choice plans that cross suburban-urban boundary lines have been shown to improve educational outcomes and life chances for disadvantaged minority children. Kahlenberg (2001) has observed that "the best guarantee that a school will have what various individual reforms seek to achieve—high standards, qualified teachers, less crowded classes, and so on—is the presence of a critical mass of middle-class families who will ensure that these things happen" (p. 4). Research on voluntary transfer policies in metropolitan St. Louis suggests that Black students attending schools in middle- and upper-class suburban communities improved their academic performance and rates of college attendance (Wells & Crain, 1997). Moreover, Black students who went to schools in wealthier suburban districts had higher rates of college attendance than their peers who attended schools in less wealthy urban districts. These variations imply that middle-class environments influence minority children's long-term educational outcomes in very powerful and meaningful ways. It is plausible, then, that students benefited from a host of factors—high expectations, excellent teachers, and accountability—that are often present in middle-class schools but too often lacking in high-poverty schools (Taylor, 2003).

Since magnet schools and inter-district choice plans are funded through public dollars, they are both subject to the same legal and administrative rules imposed on any educational system. As a result, government agencies play a critical role in establishing the policies that are intended to promote equal access to better schools. The lesson from magnet schools is that the federal government can provide financial incentives and administrative support for choice plans that create academically successful and racially integrated schools. The lesson from inter-district choice is that transfer policies between urban and suburban schools represent a powerful policy for expanding the quality of schooling options available to minority families in urban districts overwhelmed by concentrated poverty. While there is no perfect choice policy, the success enjoyed by both magnet schools and inter-district choice certainly suggests that choice policies could expand access to middle-class schools with high achievement levels. In pursuing these equity goals, the federal government should also create strong financial incentives for districts to create successful integrated schools.

Choice Requirements Under NCLB

The federal government's involvement in public school choice can be traced to the 1994 Improving America's Schools Act (IASA), which allowed local districts to use Title I dollars to fund intra-district choice programs and gave students in failing schools the option to transfer to better public schools (P. L. 103-761, 116 Stat. (5)(B)(i)(V)(II)). Since these programs were *voluntary,* few districts implemented large-scale choice programs. Under NCLB, however, districts are *required* to offer transfer options to all students in a school failing to make adequate yearly progress for two or more consecutive years—that is, any school identified as needing

improvement. According to the federal statute, districts must provide all students enrolled in an improvement school "with the option to transfer to another public school served by the district, which may include a public charter school, that has not been identified for school improvement . . . unless such an option is prohibited by state law" (P.L. 107-110, Sec. 1111, (b)(2)(D)(ii)). Regulations governing NCLB implementation also require districts to give parents "a choice of more than one such school" (*Federal Register,* Vol. 67, No. 231, Sec. 200.44 (a)(4)(i), 2002). Recognizing the traditional purpose of Title I, NLCB requires the local educational agency to "give priority to the lowest achieving children from low-income families" (P. L. 107-110, Sec. 1116 (b)(E)(ii)). The federal statute also included the possibility of transfers between districts by requiring, to the extent practical, that local education agencies establish cooperative agreements with other districts in the area if there are no eligible schools for students to transfer to within the district in which they live (P. L. 107-110, Sec. 1116(b)(11)).

Many of the conditions that led to the creation of successful magnet schools and inter-district choice plans are absent from the NCLB transfer policy. The law actually says very little about how to design a transfer program. Although the regulations go further than the statute in defining and interpreting the transfer requirements, in some respects they provide ambiguous guidance for local policymakers. While insisting that all students in low performing Title I schools have "the opportunity to access a high-quality education," they are silent on defining the characteristics of a "high-quality education." The regulations also use a measure of adequate yearly progress that does not give schools credit for improving student achievement. By requiring all schools that did not meet adequate yearly progress to offer transfers, regardless of whether the school failed by a small or large margin, NCLB fails to separate improving schools from consistently poorly performing schools.

In some places, the regulations are highly controversial and make it difficult for districts to comply. For instance, districts may not use lack of capacity to deny students the option to transfer. If a district does not have sufficient capacity, the regulations require that districts "must create additional capacity or provide choices of other schools." This changes previous regulations, which recognized the limitations posed by the lack of capacity and ignores the reality of district space constraints. The regulations also attempt to circumvent court ordered desegregation plans. If a district is subject to a desegregation plan, it is not exempt from offering students the option to transfer and "needs to seek court approval for amendments to the plan that permit a transfer option for students." If a district is unable to secure changes in that plan, it will be out of compliance with Title I.

These transfer provisions rely primarily on regulatory rules specifying what districts must do. Unlike magnet school programs, which received generous financial assistance from the federal government, NCLB provides no financial incentives for districts to implement transfer policies. Indeed, since districts must set aside 20% of their Title I allocation for supplemental educational services and transportation, there is a strong disincentive for districts to encourage large numbers of students to take advantage of either option, since it would result in fewer funds for their own programs and instructional services.[1] There are no penalties for non-compliance other than the strong disapproval of federal officials, and it is unclear who is responsible for enforcing the provisions. There are also few incentives for non-Title I schools to accept transfers, since the

[1] See our report on the implementation of supplemental educational services (Sunderman & Kim, 2004).

law's regulations do not allow Title I dollars to follow a student to a non-Title I school. A non-Title I school can only become eligible for Title I funds if a sufficient number of low-income students transfer there. Finally, there may be few incentives for parents to transfer their child from a Title I school if the receiving school is not a Title I school and thus does not offer the same services.

RESEARCH DESIGN

Key Questions and Study Organization

To understand whether NCLB's transfer policy improved educational options for low-income and minority students, we examined three questions:

1. How many students requested transfers and actually transferred to another school?
2. What kinds of actual schooling options were available to students in schools identified as needing improvement?
3. What challenges and constraints did districts face in complying with the federal choice requirements?

The purpose of this report is to examine the schooling opportunities available to minority and low-income students in ten urban districts. The remainder of this section describes the criteria used to select the ten districts in this study and the data collection methods. Next, we provide information on the number of students who requested transfers and were able to change schools. We then compare the poverty rate and the achievement level of schools identified as needing improvement ("sending schools"), schools eligible to receive transfers ("eligible receiving schools"), and schools actually chosen to receive transfers ("actually receiving schools"). This is followed by an analysis of the constraints to implementing the NCLB transfer policy at the district level. We conclude with a summary of the findings and recommendations for federal policymakers.

District Selection Criteria

The sample included ten districts in six states that were purposefully selected to represent different regions of the country. As shown in Table 1, our sample is diverse with respect to geography and size. Each district is located in one of the six states which are part of our national study on NCLB, including Arizona, California, Illinois, New York, Virginia, and Georgia.[2] The sample includes the nation's three largest public schools districts: Los Angeles Unified School District, the Chicago Public Schools, and the New York City Public Schools. Three districts—DeKalb County, GA, Fresno, CA, and Mesa, AZ—are among the nation's 50 largest school districts (Sable & Young, 2003). The four remaining districts are located in the "central-city" portion of the Metropolitan Statistical Area (MSA) in Phoenix, AZ, Buffalo, NY, Atlanta, GA, and Richmond, VA.

[2] One district originally in our sample, Arlington County, Virginia, had no schools identified as needing improvement, although it remains in our national study of NCLB.

Table 1: Total Enrollment and Percentage of Minority and Low-income Students in 10 District Sample, 2001-02.

District	Total Enrollment	% Minority	% Low-income*
Mesa Unified, AZ**	74,808	36	36
Washington Elementary District, AZ	24,811	42	49
Fresno Unified, CA	81,058	81	75
Los Angeles Unified, CA	735,058	90	73
City of Chicago Public Schools, IL	437,418	91	84
Buffalo Public Schools, NY	44,849	72	82
New York City Public Schools, NY	1,049,831	85	76
Richmond City Public Schools, VA	24,840	93	64
Atlanta Public Schools, GA	56,586	93	80
DeKalb County School District, GA	97,501	89	56

Source: National Center for Education Statistics, Common Core Data (CCD) http://nces.ed.gov/ccd/districtsearch/
*We defined "low-income" as the percentage of students receiving free- and reduced-price lunch.
**Data on free- and reduced-price lunch for Mesa was provided by the district.

These districts enroll a large percentage of low-income and minority students. Minority students make up at least 70% of the total enrollment in Fresno, Los Angeles, Chicago, Buffalo, New York, Atlanta, DeKalb County, and Richmond; and over half of all students in these districts receive a federal meal subsidy. The two Arizona districts, Mesa and Washington, have lower poverty rates and a smaller proportion of minority students than the other districts in our sample. Nonetheless, both districts have a diverse student population, and are representative of districts undergoing racial and socio-economic changes in the K-12 enrollment.

Several districts also contain a disproportionately large percentage of schools that were identified as needing improvement and were required to offer transfer options. Table 2 compares each district's share of all schools in the state and the district's share of all schools identified as needing improvement in the state. For example, Fresno contains only 1% of the schools in California, but 4.8% of all schools identified as needing improvement in California. Los Angeles contains 7% of California's public schools, but 12.5% of all schools identified as needing improvement in California. New York City and Richmond contain at least half of the schools needing improvement in each of their respective states.

Table 2: Number of Schools Needing Improvement, by District, and the Percentage of Schools Needing Improvement in Each District as Percentage of State Total, 2002-03.

	All Schools		Schools Needing Improvement	
District	Number	Percentage of State Total	Number	Percentage of State Total
Arizona	1,803		399	
Mesa	88	4.9	18	4.5
Washington	25	1.6	12	3.0
California	8,916		814	
Fresno	99	1.1	39	4.8
Los Angeles	663	7.4	102	12.5
Illinois	4,351		527	
Chicago	599	13.8	179	34.0
New York	4,296		434	
Buffalo	76	1.8	31	7.1
New York City	1,164	27.1	283	65.0
Virginia	2,090		34	
Richmond	63	3.0	17	50.0
Georgia	1,969		436	
Atlanta	97	4.9	28	6.4
DeKalb	129	6.6	25	5.7

Source: See Appendix 1 for details on the number of schools identified as needing improvement for each state and district.

Data Collection Methods

We used both qualitative and quantitative sources of data for this study. To examine how districts implemented the NCLB transfer policy, we conducted interviews with district officials responsible for administering these programs. In addition to interview data, we reviewed district documents and policies related to school choice. We supplemented our interview data with accounts from newspapers and district press releases. Second, we collected district statistics on the number of schools identified as needing improvement, the number of students requesting transfers, and the number of students who transferred to another school. We constructed a database including public schools in the ten districts in our study. It includes information on each school's Title I program status (schoolwide vs. targeted assistance), the percentage of students receiving free- and reduced-price lunch, and the percentage of students meeting proficiency in reading and math. It is important to note that proficiency levels vary across states

and districts. Therefore, a school required to offer transfers in one district might qualify to receive transfers in another district.[3] Each school's average proficiency rate is based on an average of reading and math scores from the tested grades, which vary across states.[4]

Our database also includes information on the number of schools identified as needing improvement. However, in many districts, these figures changed in 2002-03 as states renegotiated AYP rules with the federal government and as districts found errors in the list of schools the were originally identified for improvement in June 2002. This meant that the number of schools identified as needing improvement and required to offer choice changed during the 2002-03 school year in many districts.[5] For our analyses, we reconciled the differences in two ways. First, our list of schools needing improvement is current as of June 2003, which marks the end of the 2002-03 school year in most districts. Second, we used multiple sources to verify our lists of schools in need of improvement, including data obtained through district documents, interviews with district Title I directors, and national and regional newspapers.

For our analysis of the NCLB transfer option, we classify schools by three categories. The first are those schools that failed to make adequate yearly progress and were identified as needing improvement. We call these schools "**sending**" schools. The second category includes those schools that met adequate yearly progress goals and were not identified as needing improvement. Most of these schools are eligible to accept transfers. We call these schools "**eligible receiving**" schools. We emphasize that schools not identified as needing improvement are merely eligible to receive students. However, since districts are able to decide which schools actually receive transfers, these eligible receiving schools are only potential options for students. Thus, the third category includes those schools that were selected by district administrators to actually receive transfers. We label these schools "**actually receiving**" schools.

[3] Our state report (Kim & Sunderman, 2004) compares proficiency levels in schools needing improvement and schools meeting AYP in six different states.

[4] Tested grades vary by states. California provides a school-level measure of English language arts and math scores. Arizona, Illinois, and Virginia administer reading and math tests in grade 3, 5, and 8. New York administers English language arts and math tests in grade 4 and 8, and Georgia administers reading and math tests in grade 4, 6, and 8. These state assessments are intended to measure student mastery of state learning standards, and some states supplement these tests with assessments in different subjects (e.g., science, social studies) and additional grades.

[5] Appendix 1 lists the number schools needing improvement in each of the six states as of June 2003. Many of these lists changed considerably over the course of the 2002-03 school year. For instance, the number of schools needing improvement in California decreased from slightly over 1,000 to 815 schools due to changes in rules. In Arizona, the initial list of 399 schools needing improvement was changed to 244 in October 2003. For our analysis, we used the 399 count, which was the official number in June 2003, which marked the end of the 2002-03 school year.

STUDENT TRANSFER RATES

This section examines the number of eligible students who requested transfers and moved to different schools. Although students attending schools identified as needing improvement are eligible to transfer to a different school, not all of these students may be able to do so. Since all students in a school identified as needing improvement are eligible to move schools, urban districts with large numbers of schools needing improvement are likely to have thousands of students who are eligible to exercise choice under NCLB. The number of students actually transferring schools is likely to be smaller than the number requesting transfers. This section examines transfer data and provides some potential reasons why these figures vary across districts.

Requesting Transfers and Moving Schools: The Extent of Choice Among Eligible Students

Table 3 contains information on the number of eligible students, the number of parents who submitted applications to transfer schools, and the number of requests that were approved. It shows that few eligible students requested transfers and had the option to change schools.

Table 3: Participation in Transfer Program: Eligible Students, Transfer Requests, Transfers Granted in ten Districts, 2002-03.

District	Eligible Students (#)	Transfer Requests (#)	Transfer Requests (%)	Transfers Granted (#)	Requests Granted (%)
Mesa, AZ	16,008	0	0.0	0	0.0
Washington, AZ	11,372	0	0.0	0	0.0
Fresno, CA	33,218	183	0.6	111	60.7
Los Angeles, CA	215,535	n/a	n/a	n/a	n/a
Chicago, IL	127,451	2,401	1.9	1,165	48.5
Buffalo, NY	19,933	79	0.4	65	82.3
New York, NY	278,185	6,400	2.3	1,507	23.6
Richmond, VA	8,201	123	1.5	30	24.4
Atlanta, GA	14,967	32	0.2	21	65.6
DeKalb, GA	14,855	49	0.3	34	69.4

Source: Data on student transfers was obtained from district policy memos/documents, interviews with Title I directors, and local and national newspapers. It should be emphasized that data on student transfers are estimates based on all of these sources. This table reports numbers that were verified in multiple sources. Los Angeles did not have a NCLB transfer policy for 2002-2003. See Appendix 4 for details on sources.

While many thousands of students were eligible to transfer in all ten districts, fewer than 3% of eligible students requested transfers in each of the ten districts. In Mesa and Washington Elementary School District, there were no students requesting a transfer; and in Fresno, Buffalo, Atlanta, and DeKalb, less than 1% of the eligible students requested a transfer. In addition to the low response, the percentage of approved transfer requests varied across the ten districts. For example, districts were more likely to grant transfers if they had fewer requests to begin with. Therefore, the three districts which approved the highest percentage of transfer requests—

Atlanta (66%), DeKalb (69%), and Buffalo (82%)—each had fewer than 80 transfer applicants. The nation's three largest districts (Los Angeles, Chicago, New York) granted fewer transfers, but they also had more transfer requests than the other districts in our study. Finally, many students whose transfer requests were granted decided to stay in their neighborhood school. For instance, in Fresno only 62 of the 111 students (56%) whose transfers were approved actually moved out of their neighborhood school (see Appendix 4).

Explaining Differences in Parental Response to the Transfer Option

Student response to the transfer option is consistent with the response nationwide to choice programs (U. S. Department of Education, 2003). Nationwide, student enrollment in public school choice programs, charter schools, and the use of vouchers to attend a private school is low. While the districts in our study generally had low participation rates, the availability of other choice options, the lack of good transfer options under NCLB, and fewer services in receiving schools than in the home school may all factor into parent decisions to participate in the NCLB program.

Parents in many districts had other choice options in addition to the NCLB transfer options, including opportunities to send their children to charter and magnet schools. As a result, schooling options varied across our district sample, suggesting that the demand for transfers under NCLB may depend on whether parents already had educational options and were satisfied with them. In particular, several districts in our study were administering choice policies prior to the enactment of NCLB, including Fresno, Mesa, Los Angeles Unified, and Atlanta. For example, both Fresno and Mesa enacted inter-district choice policies prior to NCLB. Fresno has 19 magnet schools and 9 charters (2 district-funded, 7 state-funded). It also has an open-enrollment policy and received 4,000 applications (less than 5%) for transfers under this program in 2002. Mesa is located in the East Valley region of metropolitan Phoenix, where the number of charter schools has increased from 17 in 1996-97 to 69 in 2001-02. During the 2001-02 school year, 27 of the East Valley charter schools were located within Mesa's boundaries, and 1,958 students had transferred from the traditional district schools to charter schools (Mesa Public Schools, 2002). Furthermore, Mesa conducts annual parental satisfaction surveys, and there were no differences in parental satisfaction between parents whose children were in sending schools and those in eligible receiving schools.[6] The Los Angeles Unified School District administered two court-ordered choice programs for voluntary school integration: (1) Permits with Transportation, and (2) Magnet Programs consisting of 161 programs. Thus far, over 55,000 parents applied for these programs in the 2003-04 school year, compared to fewer than 600 applications for the NCLB transfer policy (M. McCauley, personal communication, January 13, 2004).

In addition to the existence of other choice options, parents may not have exercised their transfer option because the available options were not appealing. For example, among the 90 receiving schools in Chicago, the majority were "only marginally better than the failing school," and some

[6] Mesa administers a "Quality Service Survey" to its parents. The survey asks parents to rate the quality of their school, and these numbers are turned into a grade, ranging from "A" to "F." More than 90% of parents in schools needing improvement and schools meeting AYP gave their school an "A" or "B" rating. This is based on a response rate of 62% in schools needing improvement and 57% in schools meeting AYP.

of Chicago's receiving schools were already on a state list for "chronically poor performance" (Banchero & Cholo, 2002, August 20). Similarly, in New York City, one newspaper writer observed that "schools nearby are only marginally better…with only a third of the students meeting state standards" (Medina, 2003, May 13). Since there was little guarantee that the receiving school would actually provide a "higher-quality" education, parents may have been reluctant to transfer their children to a school farther from their home. According to one black parent whose daughter attended a school identified as needing improvement in DeKalb County, Georgia, the "schools she could transfer to were not good enough at educating blacks to be worth the inconvenience of attending a school far away" (Ghezzi, 2003, June 19).

Some parents were disappointed with the transfer option when they learned that the receiving schools might not offer many of the same services they received in their home school. If a receiving school was not a Title I school, it would not receive the additional resources that Title I schools use to provide after school or schoolwide programs. This was the case in Fresno, where many students transferred back to their home school. According to the director of federal programs in Fresno:

> We knew that parents might be disappointed if they thought that they transferred schools—that all of the services available at their home school were going to be available at the school they were transferring to. And we knew that wasn't going to be the case because many of the schools that are non-program improvement, some of them do not have Title I funds at all, or they have a lot less Title I money. They have just less funding sources so they don't have the kinds of intervention programs and after school programs and all of those extra tutoring services that they may have been used to at their home school. (B. Bengel, personal communication, September 24, 2003).

There are a number of variables in addition to whether a school has been identified for improvement that parents are likely to consider when deciding to change schools. Many low-income families believe that if their children attend schools serving higher-status children and wealthier families, they will do better academically (Willms & Echols, 1993). Parents are also likely to consider other factors such as school location, safety, teacher quality, and the existence of specialty programs (Blank et al., 1996; Peterson & Howell, 2002). Some parents may prefer schools where they know that instructional practice is improving or where a curriculum is designed to meet their child's particular learning needs. These and other variables are likely to interact in complex ways to encourage or discourage parents to switch schools.

In this section, we examine whether the NCLB transfer option provided access to better performing schools with low poverty rates. First, we compare the average poverty rate and achievement level in sending schools and eligible receiving schools. Next, we compare the poverty rates and achievement level of sending schools, eligible receiving schools, and actually receiving schools in six districts that provided detailed information on the schools chosen to accept student transfers. Since the poverty rate and achievement levels of eligible receiving schools vary, districts have a range of options when selecting schools to actually receive transfers. They can include few or many schools in the transfer process, and these schools may or may not represent better schooling options for eligible students. Our analyses shed light on the actual schooling options available to students eligible to exercise the transfer option.

Sending Schools and Eligible Receiving Schools: Differences in Poverty Rates and Achievement Levels

Since the districts in our study enroll a large number of minority students, transfer options were available to a large percentage of minority parents whose children were in schools that failed to make AYP for two or more years. Table 4 compares the percentage of low-income students in sending schools, which were required to offer transfer options to their students, and eligible receiving schools, which represent potential schooling options for eligible students. The districts are listed in the first column, and the subsequent columns compare the mean poverty rate in sending schools and eligible receiving schools. Across all ten districts, one common pattern emerges: sending schools enroll a higher percentage of low-income students, on average, than eligible receiving schools.

Although eligible receiving schools have lower average poverty rates than sending schools, these schools still enroll substantial numbers of low-income students. For example, the mean poverty rate in eligible receiving schools is above 50% in all districts except in the two Arizona districts. In fact, the average poverty rate in most eligible receiving schools exceeds the 40% minimum cutoff used to determine eligibility for Title I schoolwide programs. Since most eligible receiving schools would be defined as "high-poverty" institutions eligible for the federal schoolwide programs, it is clear that many urban schools in our study are burdened by high concentrated poverty.

Table 4: Average Percentage of Low-income Students (Free- and Reduced Lunch) in Sending Schools and Eligible Receiving Schools, by District, 2002-03.

District	Sending (% Low-income)	Eligible Receiving (% Low-income)
Mesa, AZ	66	33
Washington, AZ	65	39
Fresno, CA	86	72
Los Angeles, CA	80	69
Chicago, IL	94	67
Buffalo, NY	74	56
New York City, NY	85	65
Richmond, VA	78	62
Atlanta, GA	81	51
DeKalb, GA	90	79

Source: See Table 2 for the number of schools identified as needing improvement for each district. All schools not defined as needing improvement were considered eligible receiving. See Appendix 1 and 2 for details on data sources.

In addition to these demographic differences, there were also achievement differences between sending schools and eligible receiving schools. Table 5 compares the mean reading and math proficiency rates in sending schools and eligible receiving schools. Within each district, eligible receiving schools have higher average reading and math scores than sending schools. Given the overlap between poverty rates and achievement levels, it is not surprising to find that sending schools have lower average reading and math scores in all ten districts. For example, in the two Arizona and two California districts, eligible receiving schools had average reading and math proficiency rates that were at least 10-percentage points higher than for sending schools.

Table 5: Difference in Average Reading and Math Proficiency Rates in Sending Schools and Eligible Receiving Schools by District, 2002-03.

District	Reading		Difference in Reading (Eligible Receiving-Sending)	Math		Difference in Math (Eligible Receiving - Sending)
	Sending % Proficient	Eligible Receiving % Proficient		Sending % Proficient	Eligible Receiving % Proficient	
Mesa, AZ	54	67	13	46	56	10
Washington, AZ	50	62	12	35	49	14
Fresno, CA	9	24	15	12	25	13
Los Angeles, CA	12	25	13	13	29	16
Chicago, IL	29	52	23	22	49	27
Buffalo, NY	21	33	12	30	42	12
New York City, NY	28	46	18	31	50	19
Richmond, VA	39	57	18	38	50	12
Atlanta, GA	69	75	6	51	60	9
DeKalb, GA	74	81	7	57	70	13

Source: See Table 2 for the number of schools identified as needing improvement for each district. All schools not defined as needing improvement were considered eligible receiving. See Appendix 1 and 3 for details on data sources.

Comparing Sending Schools, Eligible Receiving Schools, and Actually Receiving Schools

While the previous section simply compared sending and eligible receiving schools, the comparisons in this section also include those schools that were selected by their district to receive transfers ("actually receiving schools"). This section examines the quality of actual schooling options available to choice-eligible students by comparing schooling options in six urban districts—Mesa, Fresno, DeKalb, Chicago, Buffalo, and Richmond. Our analysis is restricted to these districts since they had the most complete information on school choice policies during the first year (2002-03 school year) of NCLB implementation.[7] We compare the poverty rate and achievement levels in three types of schools: (1) sending schools, which failed to make AYP for two years and had to offer transfer to their students, (2) actually receiving schools, which were selected to receive transfers from sending schools, and (3) eligible receiving schools, which were not required to accept student transfers.[8]

The Number of Schools Chosen to Accept Student Transfers

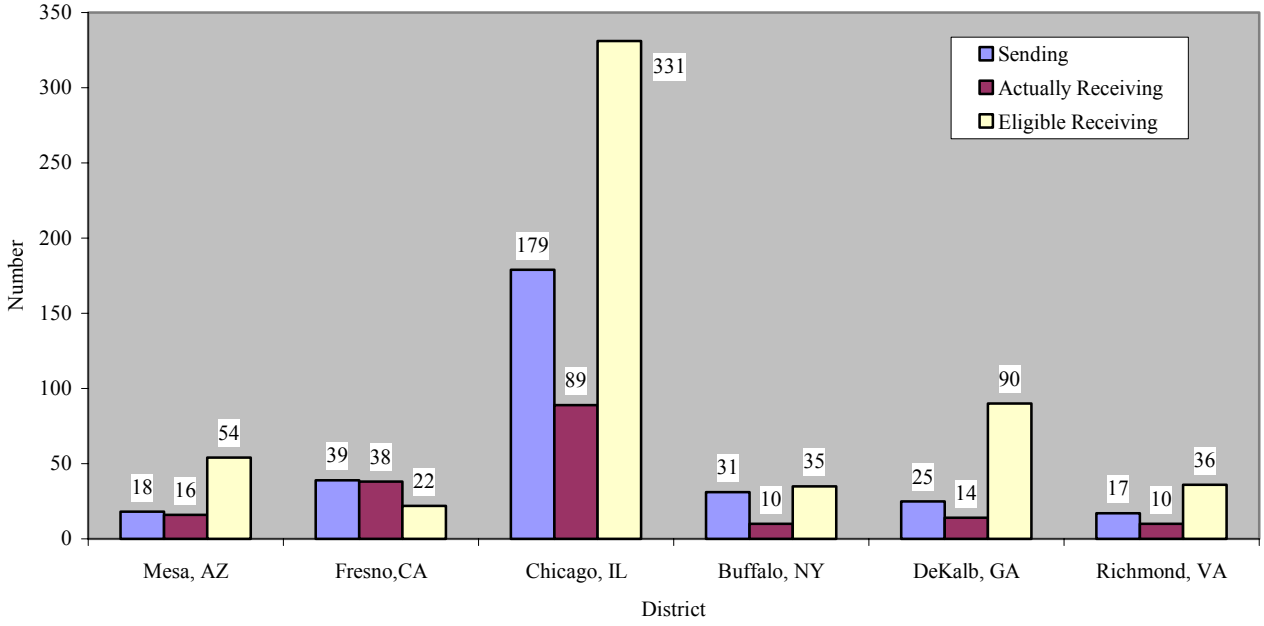
Figure 1 shows that a limited number of schools were chosen to actually receive transfers. With the exception of Fresno, the number of schools actually receiving transfers was smaller than the

[7] We will update this information for all ten districts by the end of the 2003-04 school year.

[8] It should be noted that the number of eligible receiving schools in our six-district comparison is smaller than in the earlier analyses involving all ten districts. In the current analysis, the number of eligible receiving schools in this analysis does not include schools that were selected to receive transfers (i.e., "actually receiving schools").

number of eligible receiving schools. This reduced the number of schools involved in the NCLB transfer policy that had to accept transfers. In Mesa and Fresno, there was approximately one actually receiving school for each sending school. However, in Chicago, Buffalo, DeKalb, and Richmond, there were more sending schools than actually receiving schools. For instance, in Buffalo, there were 31 sending schools, but only 10 schools actually receiving transfers during 2002-03.

Figure 1: Number of Sending Schools, Actually Receiving Schools, and Eligible Receiving Schools by District, 2002-03.



Source: See Appendix 1.
Note: These three categories are not mutually exclusive. For example, some sending schools were also chosen to receive transfers.

Sending Schools, Actually Receiving Schools, Eligible Receiving Schools: A Comparison of Poverty Rates

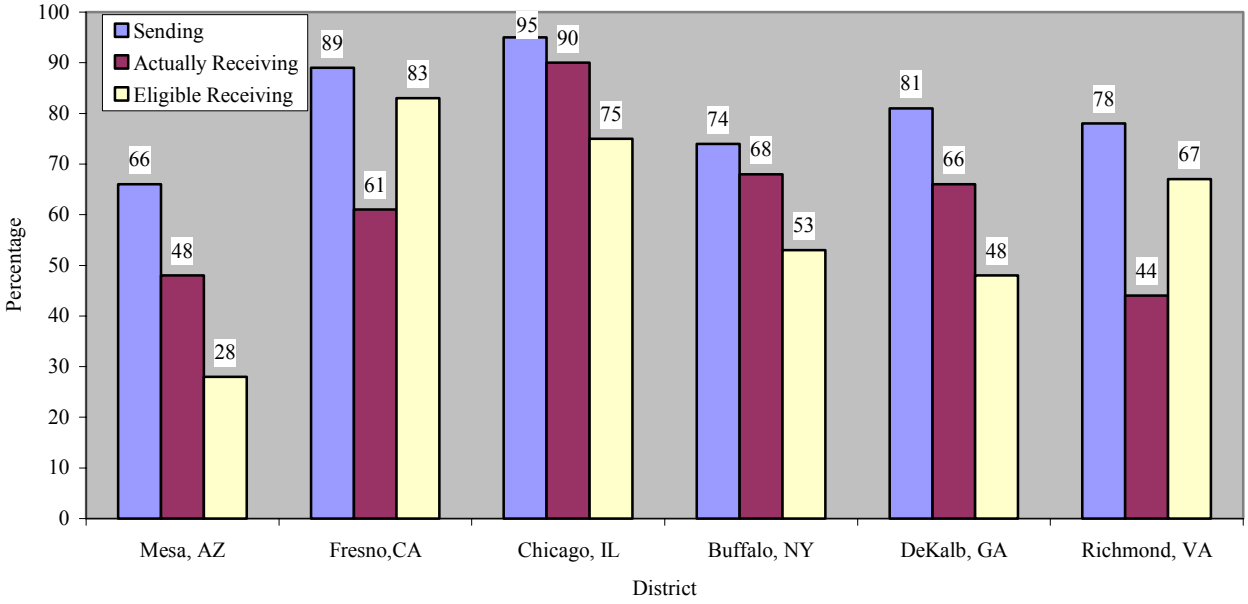
Although the number of receiving schools was limited in most districts, the quantity of choices may be less important than the quality of schooling options offered to parents. Since school quality is often measured by a school's poverty rate and achievement level, it is important to examine whether students in sending schools have opportunities to attend higher-performing schools. To determine whether students had access to schools with lower poverty rates, we compared the demographic characteristics of sending schools, actually receiving schools, and eligible receiving schools.

Figure 2 shows that in all six districts sending schools enrolled a larger proportion of low-income students, on average, than either actually receiving schools or eligible receiving schools. In Mesa, sending schools had a higher average poverty rate (66%) than actually receiving schools (48%), and actually receiving schools had a higher average poverty rate (48%) than eligible receiving schools (28%). These figures suggest that eligible receiving schools with high poverty

rates were chosen to accept student transfers in Mesa. There was a similar pattern in Chicago, Buffalo, and DeKalb where sending schools had higher poverty rates, on average, than actually receiving schools and eligible receiving schools. In Richmond and Fresno, the lower poverty rate in actually receiving schools was related to the concentration of higher income students in some parts of the district. In Richmond, which limited transfers to other schools within the same zone, this probably did not result in access to schools with lower poverty for most students, since poverty was geographically distributed.

Despite the lower average poverty rates in actually receiving schools, their average poverty rates were above 40%, which is the criterion used to determine eligibility for schoolwide programs. This implies that the NCLB transfer policies primarily involved high-poverty schools and that students had very limited opportunities to transfer to middle-class schools in these high minority urban districts.

Figure 2: Average Percentage of Low-income Students in Sending Schools, Actually Receiving Schools, and Eligible Receiving Schools by District, 2002-03.



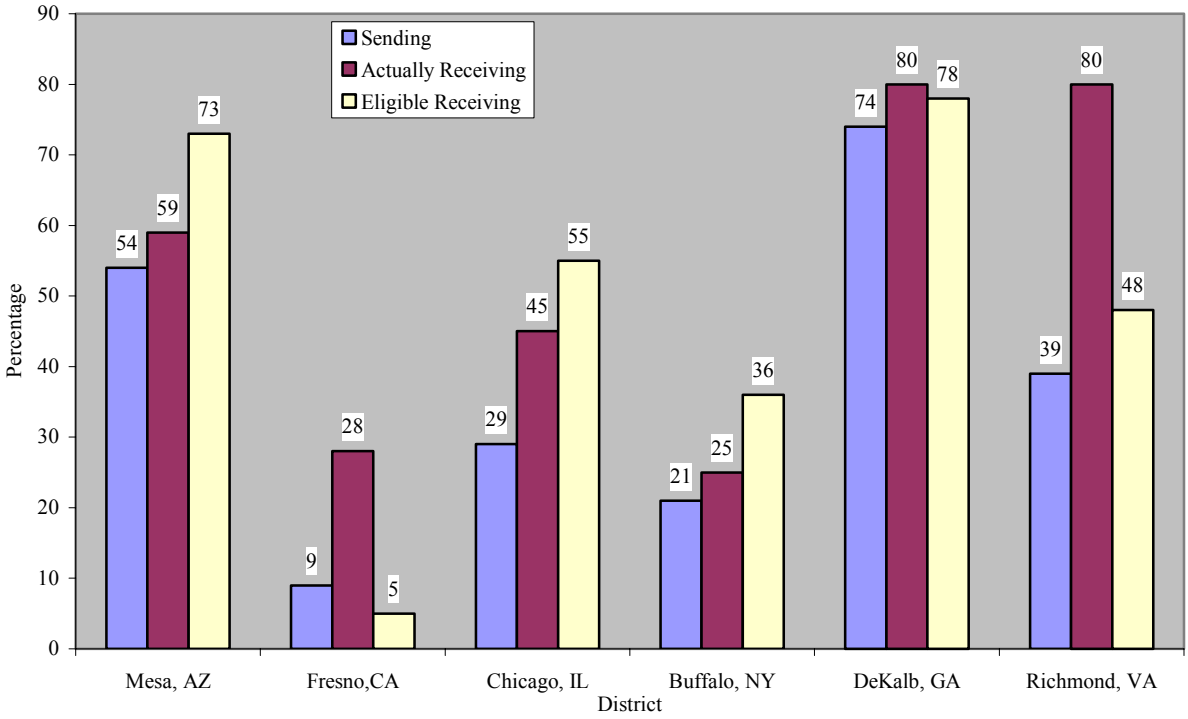
Note: Sample sizes for sending schools, actually receiving schools, and eligible receiving schools are as follows: Mesa (18, 16, 54); Fresno (39, 38, 22); Chicago (179, 89, 331); Buffalo (31, 10, 35); DeKalb County (25, 14, 90); Richmond (17, 10, 36).
Source: See Appendix 1 and 2.

Sending Schools, Actually Receiving Schools, Eligible Receiving Schools: A Comparison of Reading and Math Proficiency Levels

To understand differences in the quality of school transfer options across districts, we compared proficiency rates in reading and math in three types of schools. Figure 3 compares the average reading proficiency rates in sending schools, actually receiving schools, and eligible receiving schools in six districts. The math comparisons are shown in Figure 4. There are three noteworthy findings. First, students in Fresno, Chicago, and Richmond had an opportunity to transfer to actually receiving schools with higher mean reading and math scores, on average, than

sending schools. In Fresno and Chicago, the mean reading and math proficiency rates were more than 15-percentage points higher, on average, in actually receiving schools than scores in sending schools. In Richmond, actually receiving schools had substantially higher average reading and math performance than sending schools. The difference was 41-percentage points in reading and 36-percentage points in math.

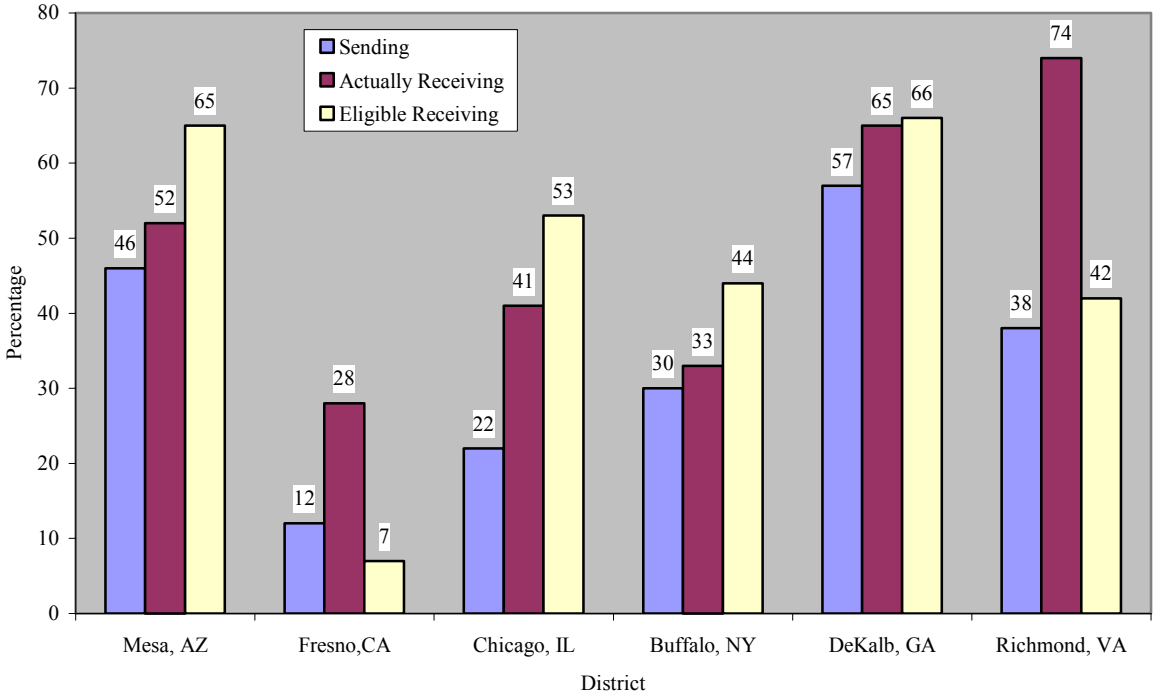
Figure 3: Percentage of Students Meeting/Exceeding Proficiency (Reading) in Sending Schools, Actually Receiving Schools, Eligible Receiving Schools by District, 2002-03.



Note: Sample sizes for sending schools, actually receiving schools, and eligible receiving schools are as follows: Mesa (18, 16, 54); Fresno (39, 38, 22); Chicago (179, 89, 331); Buffalo (31, 10, 35); DeKalb County (27, 14, 90); Richmond (17, 10, 36).
Source: See Appendix 1 and 3.

Second, there were small differences in performance levels between sending schools and actually receiving schools in Mesa, Buffalo, and DeKalb County. In these three districts, average reading and math scores of students attending sending schools and actually receiving schools differed by less than 10-percentage points. Third, Fresno and Richmond were the only two districts where actually receiving schools had substantially higher reading and math scores than both sending schools and eligible receiving schools. In Fresno, the percentage of students at the proficiency level in reading was three times higher in actually receiving schools (28%) than in sending schools (9%) and eligible receiving schools (5%). In Richmond, the percentage of students at the proficiency level in reading and math was nearly 30-points higher in actually receiving schools than in sending schools and eligible receiving schools.

Figure 4: Percentage Students Meeting/Exceeding Proficiency (Math) in Receiving Schools, Actually Receiving Schools, Eligible Receiving Schools by District, 2002-03.



Note: Sample sizes for sending schools, actually receiving schools, and eligible receiving schools are as follows: Mesa (18, 16, 54); Fresno (39, 38, 22); Chicago (179, 89, 331); Buffalo (31, 10, 35); DeKalb County (27, 14, 90); Richmond (17, 10, 36).
Source: See Appendix 1 and 3.

Implications of Findings on Schooling Options

It is unlikely the NCLB transfer option will provide meaningful choices for students in urban districts serving large numbers of economically disadvantaged students. These districts have a disproportionate share of the schools required to offer transfers, which makes it difficult for them to identify better performing schools to accept student transfers. In our analysis, many of those schools that are eligible to receive transfers are not performing much better than those identified for improvement. Nor do they have substantially lower poverty rates. Moreover, the number of schools required to offer transfers is likely to increase under current NCLB accountability requirements, further limiting the number of schools that can accept student transfers.

The current rules governing the NCLB transfer policy create what seem to be insolvable circumstances. In districts such as Richmond, which selected as receiving schools only those that met the state's accreditation standards, the schools were better performing, but too few in number to accommodate students requesting a transfer. Since no additional money is provided to schools accepting transfers, there are few incentives for districts to include high-performing schools in the transfer plan. Title I funds for schoolwide programs is only available to schools once they reach the 40% poverty threshold. Further, districts may be cautious about transferring poorly performing students to schools that are performing only marginally better than the sending schools, since this may overwhelm them and cause more schools to fail.

We found that schools that were eligible to receive transfer students still enrolled large numbers of low-income students. Further, when we compared the performance of students in sending schools with actually receiving schools, we found little difference in achievement levels. This is the case in urban districts, which have a disproportionate share of the schools required to offer choice. In these districts, good schooling options are not available since, on average, more than 40% of the students attending schools eligible to receive transfers are low-income. Our second analysis also included poverty and achievement data for actually receiving schools, which were chosen to receive transfers. This analysis focused on six districts in our study that provided more detailed information on the schools selected to receive transfers. It underscores the limited quantity and quality of schooling options under NCLB and highlights several limitations of the federal law. Furthermore, the schools selected to receive transfers had average poverty rates above 40% in two districts (Mesa, Richmond) and above 60% in four districts (Fresno, Chicago, Buffalo, DeKalb). In many urban schools, both sending schools and actually receiving schools have higher poverty rates.

Districts that do provide access to better schools used stricter achievement criteria for selecting receiving schools. For example, actually receiving schools in Richmond had to meet the Virginia standards of accreditation, which requires schools to meet or exceed a 70% proficiency rate in the four academic subjects (English, math, history/social science, science). However, since these high-performing schools had serious capacity constraints, only 30 out of 123 transfer requests were granted (see Table 3). If districts like Richmond selected the highest-performing schools to accept transfers, they would be unable to accommodate all the transfer requests to high-performing schools that are already overcrowded. Since no additional money is provided to schools accepting transfers, NCLB provides no incentive for districts like Richmond to expand the supply of seats in high-performing schools, either in their own district or in outlying suburban districts. Instead, NCLB creates major disincentives for districts to comply with the federal requirements governing choice.

CHALLENGES AND CONSTRAINTS TO CHOICE IMPLEMENTATION

In the summer and fall of 2002, local education officials had to comply with several federal requirements for school choice. Districts were required to set aside 20% of their Title I funds to pay for choice-related transportation costs and supplemental educational services. Moreover, they had to identify sending schools, which were identified by the state as needing improvement, and receiving schools, which were eligible to accept student transfers. Throughout this process, a number of constraints, including capacity in eligible receiving schools, transportation plans, and pre-existing district policies, shaped district decisions. The federal law assumes that districts will be able to comply with the prescriptive rules and strict timelines for implementing choice while, at the same time, meeting local educational priorities. In this section, we examine the major constraints and challenges to complying with the federal requirements.

Constraints to Implementing the NCLB Transfer Policy

Capacity and Transportation Constraints

In most districts, receiving schools had to have space available to accommodate additional students before districts would designate a school as a receiving school. Districts used this criterion for designing their choice policies, even though NCLB prohibits districts from using lack of capacity to deny student transfers. Districts limited transfers to schools with space for three reasons. First, capacity was allowed under the previous statute and regulations, and second, the final regulations were released in November 2002, well after districts had implemented the transfer option for the 2002-03 school year. Third, districts traditionally have used the availability of space as a criterion for enrollment decisions and recognized the disadvantages of overcrowding in a school. Capacity constraints were especially severe in large districts, where overcrowding is a serious problem and where a large number of Title I schools were identified as needing improvement. Fresno, for instance, is a growing district and over half of the schools could not accommodate transfers because they had reached capacity before the start of the school year.

District officials dealt with these capacity constraints by prioritizing the lists of potential transfers. In some districts, administrators tried to meet the federal choice requirements by approving applications for transfers from students in schools with comparatively higher poverty rates and lower achievement scores. For instance, eligible students in Chicago who were in high-poverty schools were more likely to have their transfer requests approved than students in lower-poverty schools. Moreover, eligible students in schools with lower reading and math scores were more likely to have their transfer requests granted than students in higher-performing schools. This suggests that district officials in Chicago approved transfers for students in more economically disadvantaged schools with lower achievement levels. Given the severe capacity constraints facing Chicago schools, it appears that the design decisions were intended to offer transfers to students attending the highest-poverty schools.[9]

In addition to considering school capacity, districts placed geographic limitations on where a student could transfer in order to control transportation costs and to limit the amount of time

[9] See Appendix 5 for correlation matrix of transfers granted and school poverty rates and achievement levels.

students spent in the bus. Containing costs was of particular concern to district officials in light of fiscal constraints related to state budget shortfalls. To meet these goals, district officials used several strategies. For example, to accommodate existing bus routes, DeKalb officials offered parents three choices that were based on where the child lived and the location of the receiving school in relation to existing bus routes. Richmond, which is divided into three catchment zones, allowed students to transfer only within zones. Fresno also divided the district into four quadrants and allowed students to transfer to receiving schools within the quadrant where they lived. In 2002-03, receiving schools in Chicago had to be within three miles of the sending school, and in New York City students could only transfer within their home school district and only if the receiving school had space.

Existing Operating Procedures and Implementation Timeline

The federally mandated timeline for implementing the choice requirements conflicted with state and district procedures for testing students and releasing scores. State departments of education are responsible for administrating and scoring the state assessments used for accountability and for identifying schools needing improvement. The timeline established for these activities, coupled with the accelerated federal timeline, gave district administrators little time to identify schools students could transfer to and made it difficult for officials to notify parents before the start of the school year. For example, in Richmond test scores were not available until August, a few weeks before the start of school. In Mesa, officials received the list of schools needing improvement in October, several months after the start of the new school year. The final federal regulations governing NCLB implementation were released late (November 2002) and added to the challenge of implementing choice within a short timeframe. It was not entirely clear to districts that they would have to begin implementing choice in the 2002-03 school year or how the Department of Education would interpret the law. While the statute mandated that local educational agencies must intervene in schools identified as in need of improvement, the final regulations narrowly interpreted the statute and required schools to begin offering public school choice "before the year following the year in which the LEA administered the assessment that resulted in the school's failure to make AYP for a second consecutive year."[10] This interpretation meant districts had to offer the transfer option at the beginning of the 2002-03 school year and also to students in schools that were identified for improvement after the start of the school year.

The strict implementation timelines made it difficult for districts to design a choice plan and notify eligible parents. Before implementing their choice plans, districts had to wait for state education agencies to send them the list of schools identified as needing improvement. However, these lists were often sent to local officials after the start of the new school year. State departments of education identify schools for improvement and districts establish the school calendar. The two processes are not necessarily coordinated or uniform across a state. In Mesa, school starts in the middle of August, yet according to the Arizona accountability plan, the Arizona Department of Education plans to release future preliminary adequate yearly progress (AYP) determinations by August 1st and final AYP determinations by September 1st (Arizona Department of Education, 2003, p. 11). Given the delay in identifying schools in need of

[10]34 C.F.R. §200.32(a)(2)(a)(1).

improvement, one senior district official explains that parents did not learn about their choice options until November.

> Under NCLB, I noticed that they don't come out with the labels until the Friday before Labor Day. . . But out here [in Arizona] school starts in the middle of August. So if you don't come out with the labels until September and it does take a little while to – O.K., I've got these labels, I have to notify people, I have to write something up – it's reasonable – it's going to take you a couple of weeks. You're still not going to offer Choice and all this other stuff – until the middle of say, after the first quarter. . . So really, you didn't get the opportunity to transfer until the end of the first semester and most people aren't going to move their kids in the middle of the year (O' Reilly, personal communication, June 17, 2003).

Given the strict federal timeline for implementing choice, some districts were unable to notify parents of their choice options prior to the start of the 2002-03 school year. As a result, critics in some urban districts raised questions over whether school leaders and administrators were doing all they could to inform parents about their options to transfer. For example, in Buffalo, the Brighter Choice Public School Choice Project conducted a survey with a grant from the U.S. Department of Education. According to this survey, 75% of the parents surveyed did not realize that their child attended a school designated in need of improvement and 92% of respondents also indicated that "they would like to switch their children to other schools" (Brighter Choice Public School Choice Project, 2003, January 22; Simon, 2003, February 5). Brighter Choice found that a similar percentage of parents in Albany were unaware of the choice option. Based on the results of this survey, Brighter Choice claimed that there was a lack of awareness among parents about their option to transfer. This put school officials in the position of defending their notification process.

Pre-Existing Choice Programs

An unintended consequence of the NCLB transfer option was its effect on pre-existing choice and open enrollment programs. Both the requirements of the transfer option and the implementation timeline limited district flexibility to coordinate existing programs with the NCLB transfer option. Districts established application timelines for ongoing choice programs well before they had information on schools that might have to offer choice under NCLB. Under the choice plan in Richmond, for example, students could attend their neighborhood school or a designated open enrollment school within their attendance zone. For the 2002-03 school year, applications for the open enrollment schools were due in January 2002, and decisions were made by March. According to district officials, most of the available seats were filled under this process, leaving few choices for eligible children under NCLB. To accommodate NCLB, the district eliminated the open enrollment option and gave preference to students requesting transfers from schools identified for improvement. According to the Director of Pupil Personnel Services, the district could not continue to offer their open enrollment program and still accommodate NCLB because of limited capacity and the timeframe for releasing test score data, which was well after the application deadlines for the open enrollment program.

Other districts with liberal open-enrollment policies in place before the enactment of NCLB also abandoned or modified these policies. For example, Atlanta permits students to transfer to any school outside his/her attendance zone if there is space and parents provide transportation. Each year, nearly 2,000 students apply for transfers and around 1,000 of those requests are approved. Transfer requests are granted on a first-come, first-served basis during the March enrollment period. However, under NCLB districts must give the lowest-achieving students in schools identified for improvement first priority in granting transfers. This forced Atlanta administrators to change their choice policies by first offering transfers to students in schools identified as needing improvement, leaving fewer slots for students who were not in improvement schools (Donsky, 2003, January 10).

There were no requirements in the law that districts include specialty schools with selective admissions criteria as transfer options. Therefore, many districts excluded schools with admission requirements from participating in NCLB's choice plans. Some states codified this into law. For example, the Illinois State Legislature passed a law in 2002 permitting schools with academic specialties and those with "selective enrollment" to decline transfer students, thereby reducing the supply of receiving schools in Chicago (Russo, 2002). Students in Buffalo could transfer to any school that had not been identified for improvement, unless the school had admission requirements. Since almost half of the schools in Buffalo had been identified by the state for improvement, once the magnet and special program schools were excluded, there were few schools for parents to choose from. Similarly, by excluding magnet schools from NCLB's choice plan, Fresno officials encountered difficulty finding middle schools that could receive transfers. Three middle schools were identified for improvement, and two of three remaining schools were magnet schools that did not accept transfers because of their special enrollment requirements. As a result, middle school students had only one transfer option (B. Bengel, personal communication, July 31, 2003).

Implications of Findings on Challenges and Constraints to Choice Implementation

Although the districts in our study had a disproportionately large share of schools needing improvement, they received no extra federal money to implement choice. And since larger numbers of schools had to offer choice, thousands of students were eligible to transfer. Local officials had to identify receiving schools, but many urban districts faced severe over-crowding problems, often had few higher performing schools to pair with choice schools, and were sometimes prohibited by state law from including specialty and magnet schools in the transfer process. None of the districts were able to establish inter-district transfer agreements with surrounding districts in order to expand the options available to students. In addition to the challenges of finding seats in receiving schools, administrators had to notify parents about their choice options, review transfer applications, and design transportation routes. Many of the problems observed in the first year are being exacerbated in the second year as more schools are required to offer transfers.

We are just beginning to analyze data for the 2003-04 school year, and early indications are that as more schools are identified for improvement, districts are forced to alter their transfer policies and abandon plans developed in the prior year. For example, Fresno officials dropped plans to pair receiving and sending schools and approved all 549 requests from students seeking to

transfer out of improvement schools. In New York, officials decided to lift many of restrictions on transfers enacted during 2003-04. Chancellor Joel Klein took over responsibility for the transfer program in December 2002 after the City Council and others highlighted the disparity between the number of students eligible to transfer and the number of students who actually transferred. For the 2002-03 school year, students were only allowed to transfer within their home school district and only if the receiving school had space. For the 2003-04 school year, school capacity was no longer a consideration as students were allowed to transfer to any school citywide. The Chancellor's office approved all transfer requests because the district chose to follow the regulations strictly and enacted a policy that did not take into account school capacity. Chicago Public Schools has a completely different transfer plan for 2003-04. Instead of pairing or clustering schools, parents could select two schools from a list of receiving schools citywide.

With the increased number of students eligible for transfers, full implementation of the federal choice requirements may cause a backlash in neighborhood schools that have to receive large numbers of transfers. In New York, the consequences of the decision to ignore space constraints created overcrowding in many schools and provoked a political backlash. Representative Anthony Weiner (D-Brooklyn, Queens) introduced the School Capacity Relief Act (H.R. 947) that intends to "authorize local education agencies to prohibit the transfer of students under section 1116 of the Elementary and Secondary Schools Act of 1965 to schools that are at or above capacity, and for other purposes." Since many urban districts already have a large number of schools identified for improvement, they will have difficulty accommodating all transfer requests and at the same time responding to local preferences for limiting transfers. For example, school officials in Chicago were openly opposed to receiving transfer students, fearing they would bring down the school's test scores. Since 368 schools (63.9%) were required to offer choice in 2003-04, there were few transfer options available unless the district ignored capacity constraints, something it has not yet done.

If choice is to advance equity, it will require careful planning, time, and money. As one national commission on school choice (Brown Center on Education Policy, 2003) has observed, "choice programs will not be implemented easily or even cheaply" (p. 8). Our analysis of district implementation efforts underscores the wisdom of this conclusion.

SUMMARY AND RECOMMENDATIONS

Summary of Main Findings

During the 2002-03 school year, the transfer option was not widely used. In each of the ten districts in our study, fewer than 3% of eligible students requested transfers to different schools. Yet it remains important for two reasons. First, it represent a major tenant of the law—that competition will produce better educational opportunities for disadvantaged students and improve the performance of low-performing schools. Second, the NCLB transfer option is being tried in districts where there are few spaces in schools with high achievement levels.

In the districts we studied, the NCLB transfer provisions failed to provide disadvantaged students with a meaningful opportunity to transfer to higher performing schools. There were a limited number of higher-performing schools for students to transfer to since most of the receiving schools did not have substantially higher achievement levels or lower poverty rates, on average, than schools required to offer choice. This meant that many students who transferred went from one weak school to another. It is unclear how this will improve under the current law since the number of schools required to offer transfers is likely to increase and the law lacks any mechanism to ensure access to better schooling options.

The fundamental problem facing many districts is the limited supply of schooling options within a large urban school burdened by high concentrated poverty. From a civil rights perspective, one way to increase the quality of schooling is to expand access to suburban schools, which have more resources, middle-class students, and skilled teachers than high-poverty urban schools. While it may be exceeding difficult to establish inter-district choice plans across city and suburban lines, it is nonetheless encouraged in the federal law and has the potential to provide better schooling options for minority and low-income students attending high-poverty urban schools. Yet none of the districts in this study were able to establish transfer agreements with surrounding districts, and it is unlikely that suburban schools would be willing to enter in agreements without financial incentives that would compensate these districts for accepting disadvantaged students. Assurances that sending districts would not lose large amounts of money would also be necessary.

While urban districts have a disproportionately large number of schools required to offer transfers, the regulations governing choice make it difficult for districts to create workable and effective transfer policies. The requirements to offer choice imposes major financial and administrative burdens on local officials while providing no additional funding. Since there are major costs and few immediate benefits for districts, federal officials have relied on informal pressures to compel districts to comply with the core statutory requirements. They also created unreasonable regulations that compel districts to implement choice by any means necessary even if it puts federal desegregation efforts at risk or strains the capacity of overcrowded schools.

Policy Recommendations

Strict adherence to the statutory requirements for implementing choice should not be viewed as the goal of federal policy. Rather, the intended goal is the creation of better schooling options for poor and minority children living in impoverished communities and attending inferior schools. Well-designed, NCLB transfer options are a potentially useful means to give more and better educational options to parents whose children attend low-performing schools. As currently constructed, however, the NCLB transfer option fails to provide meaningful schooling options for large numbers of disadvantaged families. In short, the NCLB transfer policy is still a work in progress and requires major revisions to achieve its stated goals. Toward this end, we encourage federal lawmakers to consider the following recommendations:

- **The federal government should not mandate transfers as a sanction for *all* schools that are identified as needing improvement.** Not all schools identified as needing improvement are "failing" to improve student achievement. Yet the NCLB accountability system imposes a single sanction on schools that have few similarities and major differences. Some schools identified as needing improvement may have adopted effective instructional policies that produce consistent improvements in student learning over several years. Other schools may have low achievement levels that stem from a chronic failure to upgrade the quality of teaching and learning. The federal law should distinguish between improving schools, on one hand, and consistently low-performing schools, on the other hand.

- **The federal government needs to develop mechanisms to ensure that students in persistently low-performing schools have access to better schools.** This includes developing better ways to assess the performance of sending and receiving schools, and implementing incentives to encourage transfer policies that expand access to high-achieving schools. These mechanisms should encourage the expansion of better options through both intra-district and inter-district choice plans.

    - Within a given district, students in chronically low-achieving schools should have an opportunity to move to schools with substantially higher achievement levels and substantially lower poverty rates. While average test score levels and poverty rates are not the only criteria for determining school quality, they are at least two factors that should be used to determine which schools actually receive transfers. If transfers were limited to low-poverty schools and high-achieving schools, the NCLB transfer policy would not overwhelm schools that already enroll large numbers of low-income students. The transfer policy would also facilitate access to schools with higher achievement levels.

    - If there is limited capacity among high-achieving schools within a school district, federal policies are needed to encourage local officials to adopt transfer policies across district boundaries. The federal government should encourage inter-district transfer plans by providing additional resources to districts that actually receive low performing students and to districts sending students so that these sending districts do not lose resources. Inter-district choice plans would create more

schooling options for economically disadvantaged families and alleviate the administrative and financial burdens that the NCLB transfer policy imposes on urban school districts.

- **The NCLB transfer policy should do no harm to existing transfer policies.** The federal law should respect existing local transfer policies that are popular with and familiar to parents. Federal policy should support local efforts rather than imposing additional administrative and bureaucratic requirements that complicate these efforts to expand schooling options for parents whose children attend low-performing schools. Finally, the NCLB transfer option should not disrupt federal desegregation plans, which are intended to promote school integration and educational equity.

APPENDIX

Appendix 1: Data Sources on the Number of Schools Identified as Needing Improvement for 2002-03 and 2003-04, by State and District.

State	2002-03 (Last Updated, June 2003)	2003-04 (Last Updated, December 9, 2003)
Arizona	399	244
(Source)	Personal Communication-Title I	http://www.ade.az.gov/profile/publicview/aypschoollist.asp.
California	815	1,205
(Source)	http://www.cde.ca.gov/iasa/titleone/pi/	http://www.cde.ca.gov/ayp/2003/titleone/titleI_layout.htm
Illinois	527	581
(Source)	http://www.isbe.net/research/reports.htm#Statistics	http://www.isbe.net/research/pdfs/2003_StateReport_E.pdf
New York	434	517
(Source)	http://www.emsc.nysed.gov/deputy/nclb/nclbhome.htm	http://www.emsc.nysed.gov/deputy/nclb/nclbhome.htm
Georgia	436	846
(Source)	http://www.doe.k12.ga.us/support/plan/nclb.asp	http://www.doe.k12.ga.us/support/plan/nclb.asp
Virginia	34	43
(Source)	http://www.pen.k12.va.us/VDOE/src/vasrc-title1.pdf	http://www.pen.k12.va.us/VDOE/src/vasrc-title1.pdf

Note: The number of Title I schools identified as needing improvement in each district in the study was extracted from state data files by filtering state lists according to each district's unique identifier code. By applying this method to the California state data files, Fresno was determined to have 39 choice-eligible schools. New York's data file indicated that Buffalo had 31 choice-eligible schools and New York City had 283. Virginia's data file indicated that Richmond had 17 choice-eligible schools. Georgia's data file indicated that Atlanta had 28 choice-eligible schools and DeKalb County had 25 choice-eligible schools. Though applying the same method to the data file for Illinois would result in 335 schools in Chicago. However, state policymakers decreased this number to 179, which is used throughout our analysis. Arizona also decreased the number of schools needing improvement from 399 schools to 244 schools. We relied on the 399, which was the official figure at the end of the 2002-03 school year. This resulted in a final figure of 18 choice-eligible schools in Mesa and 12 choice-eligible schools in Washington. We obtained lists of receiving schools from Title I offices in Mesa, Fresno, Chicago, Buffalo, Richmond, and DeKalb. These schools were coded in our database and allowed us to create three categories of schools: (1) sending schools, (2) actually receiving schools, and (3) eligible receiving schools. The analyses in section three are based on comparisons among these three types of schools.

Appendix 2: Description of School-Level Data (Title I Information and School Demographics) in 10 District Sample.

State/ School ID	Title I Information	School Demographics
Arizona (Mesa, Washington) ENTITY_ID	Academic Achievement Division (personal communication)	Academic Achievement Division (personal communication)
California (Fresno, Los Angeles) CDS_CODE	Policy and Evaluation Division http://api.cde.ca.gov/datafiles.html	Educational Demographics Office http://data1.cde.ca.gov/dataquest/
Illinois (Chicago) RCDS	Data Analysis and Progress Reporting http://www.isbe.net/research/reports.htm#Statistics	Data Analysis and Progress Reporting http://www.isbe.net/research/reports.htm#Statistics
New York (Buffalo, New York) BEDS_CD	Information and Reporting Services (personal communication)	Information and Reporting Services http://www.emsc.nysed.gov/repcrd2003/database/guide.html
Georgia (Atlanta, DeKalb) KEY	Policy Division-Title I Programs http://www.doe.k12.ga.us/support/plan/nclb.asp	Administrative Technology http://techservices.doe.k12.ga.us/reportcard/default.htm
Virginia (Richmond) DIV_SCH	Office of Information Technology (personal communication)	Office of Information Technology http://www.pen.k12.va.us/VDOE/Publications/rep_page.htm

Column 1 indicates the unique school identifier assigned to each public school in the state. These school identifiers were used to merge data across different files. We concatenated the division and school code to create the Virginia school-identification number, since the state does not assign a unique ID to each school.

Column 2 lists the administrative divisions and websites through which Title I school identifiers (improvement status, years in improvement, school wide program, targeted assistance program) were obtained.

Column 3 lists the divisions of state-level administration and websites through which school demographic characteristics (race/ethnicity, free lunch status, English learners, students with disabilities) were obtained.

Since this information is maintained in different types of electronic files (e.g., Access, Excel, Text Files), we converted this data into SPSS files using DBMS/COPY. We obtained missing information through personal contacts in each of the six departments of education.

Data for schools within the districts focused on in this study was extracted from the larger state data by filtering results at the state level according to each district's unique school identifier code. Schools were then compared within the district based on the relevant variables.

Appendix 3: Description of Achievement Outcomes in Ten District Sample.

State/School ID	Achievement Outcomes
Arizona (Mesa, Washington)	Research and Policy
ENTITY_ID	http://www.ade.az.gov/standards/aims/Results/Default.asp
California (Fresno, Los Angeles)	Standards and Assessment Division
CDS_CODE	http://star.cde.ca.gov/star2002/help/ResearchMDB.asp
Illinois (Chicago)	Data Analysis and Progress Reporting
RCDS	http://www.isbe.net/research/reports.htm#Statistics
New York (Buffalo, New York)	Information and Reporting Services
BEDS_CD	http://www.emsc.nysed.gov/repcrd2003/database/guide.html
Georgia (Atlanta, DeKalb)	Administrative Technology
KEY	http://techservices.doe.k12.ga.us/reportcard/default.htm
Virginia (Richmond)	Virginia Report Card
DIV_SCH	http://www.pen.k12.va.us/VDOE/Assessment/2002SOLpassrates.html

We obtained achievement outcomes for all public schools in each of the six states through contacts in the department of education. Arizona maintains both AIMS and Stanford 9 scores for both regular public and charter schools in downloadable Excel files. Illinois, New York, Georgia, and Virginia maintain zip files that include comprehensive school-level test score trends since the late 1990s. Illinois and Virginia provide school level averages in reading and math for all tested grades. Illinois and New York also disaggregate scores by race/ethnicity, economic disadvantage, disability status, and English learner status.

California keeps STAR results in Access files. We merged the STAR results with the 2002 and 2003 AYP Phase I Datafile (DBF format), which included information on enrollment counts, participation rates, and proficiency rates by ten subgroup categories (i.e., African American, American Indian, Asian, Filipino, Hispanic, Pacific Islander, White, Socio-economically Disadvantaged, English Learner, Students with Disabilities).

Data for schools within the ten districts in this study were extracted from the larger state database by filtering results at the state level according to each district's unique school identifier code. Achievement outcomes were then compared within the district according to academic subject and relevant variables.

Appendix 4: Data Sources for Table 3

In Column 2 (Eligible Students), the number of eligible students was obtained by summing the enrollment in all schools that failed to make adequate yearly progress for two consecutive years and were in their first year of school improvement. Information on school performance was obtained from the state departments of education (see Appendix 1).

It should be noted that media and district reports differed from these figures at times. Multiple media reports in New York indicated that 220,000 students were eligible to transfer in New York City[11,12]. Officials in the New York City Department of Education, however, reported that approximately 275,000 students were eligible[13], a number very similar to our calculation. Officials in the Atlanta Public Schools reported that 14,920 students were eligible for transfers in 2002-2003[14], again a similar number to our calculation. The Atlanta Journal-Constitution[15] reported that 16,100 students were eligible for transfers in DeKalb County. Though this number varied from our calculation, we chose to cite our own data, as it is unclear how this number was calculated. Though the Daily News of Los Angeles[16] reported that approximately 200,000 students were eligible for transfers in Los Angeles, district officials indicated that Los Angeles did not have a formal program in place in time for the 2002-2003 school year. Data regarding transfer requests is therefore not reported for Los Angeles.

In Column 3 (%Transfer Requests), figures were arrived at by calculating the percentages using the numbers of eligible students and the numbers of students requesting transfers.

In Column 4 (Transfer Requests), the number of transfer requests was obtained from personal communication with district staff or through media sources. District officials indicated that: 0 students in both Mesa[17] and Washington[18], 183 students in Fresno[19], 79 students in Buffalo[20], 123 students in Richmond[21], and 32 students in Atlanta[22] requested transfers for the 2002-2003 school year. The New York Times[23] and Associated Press[24] reported that 6,400 students requested transfers in New York City. The Atlanta Journal-Constitution[25] confirmed that 32 students requested transfers in Atlanta and reported that 49 students requested transfers in

[11] Campanile, C. (2002, December 10). Klein Seizes Troubled Program. *The New York Post*, p. 22.
[12] Brownstein, R. (2003, Summer). Locked Down. *Education Next*, p. 40-47.
[13] M. McManus (personal communication, December 16, 2003)
[14] S. Coleman (personal communication, November 14, 2003)
[15] Sansbury, J. (2002, September 15) Obstacles hold kids in bad schools; No Child Left Behind fails to deliver Results. *Atlanta Journal-Constitution*, Pg. 1A.
[16] Editorial: What Choice is that? Parents get their Pick: A Failing School or a Cross-town Commute (2003, February 10) *Daily News of Los Angeles*, Pg. N14.
[17] J. O'Reilly (personal communication, June 17, 2003)
[18] J. Sullivan (personal communication, June 16, 2003)
[19] B. Bengel (personal communication, July 31, 2003)
[20] M Cañedo (personal communication, February 5, 2003)
[21] E. Scott (personal communication, May 27, 2003)
[22] S. Coleman (personal communication, November 14, 2003)
[23] Medina, J. (2003, May 13) Often, a Bitter School Choice: Almost as Bad or Far Away. *The New York Times*, p. B1.
[24] Families sue over denied school transfers (2003, January 28) *The Associated Press State & Local Wire*.
[25] Sansbury, J. (2002, September 15) Obstacles hold kids in bad schools; No Child Left Behind fails to deliver Results. *Atlanta Journal-Constitution*, Pg. 1A.

DeKalb County. Data files received from the Chicago Public Schools indicated that 2,401 students had requested transfers. Earlier, Chicago had reported that 2,425 students had requested transfers[26].

In Column 5 (Transfers Granted), data for the number of transfer requests was obtained from personal communication with district staff or media sources. District officials indicated that: 0 students in both Mesa[27] and Washington[28], 111 students in Fresno[29], 65 students in Buffalo[30], 30 students in Richmond[31], and 21 students in Atlanta[32] were granted transfers for the 2002-2003 school year. The New York Times[33], New York Post[34], Associated Press[35], and Education Next[36] reported that 1,507 transfers were granted in New York City. The Atlanta Journal-Constitution confirmed that 21 transfer requests were granted by Atlanta[37]. Data files received from the Chicago Public Schools indicated that 1,165 students had been granted transfers. Earlier, Chicago had reported that 1,170 students' transfer requests were granted[38].

In Column 6 (% of Requests Granted), the figures were arrived at by calculating the percentage of the number of students requesting transfers represented by the number of students granted transfers.

[26] 1170 CPS Students to Transfer under "No Child Left Behind". (2002, August 23). Chicago Pub Schools Release:http://www.cps.k12.il.us/AboutCPS/PressReleases/Archives/August_2002/NCLB082302/nclb082302.html

[27] J. O'Reilly (personal communication, June 17, 2003)

[28] J. Sullivan (personal communication, June 16, 2003)

[29] B. Bengel (personal communication, July 31, 2003)

[30] M Cañedo (personal communication, February 5, 2003)

[31] E. Scott (personal communication, May 27, 2003)

[32] S. Coleman (personal communication, November 14, 2003)

[33] Medina, J. (2003, May 13) Often, a Bitter School Choice: Almost as Bad or Far Away. *New York Times*, p. B1.

[34] Campanile, C. (2002, November 19) Mayor & Council in Ugly School Duel. *The New York Post*, p. 8.

[35] Families sue over denied school transfers (2003, January 28) *The Associated Press State & Local Wire*.

[36] Brownstein, R. (2003, Summer). Locked Down. *Education Next*, p. 40-47.

[37] Donsky, Paul. (2002, August 22). Few Students Use New Law for Transfers. *Atlanta Journal-Constitution*, p. 1JN

[38] 1170 CPS Students to Transfer under "No Child Left Behind". (2002, August 23). Chicago Pub Schools Release:http://www.cps.k12.il.us/AboutCPS/PressReleases/Archives/August_2002/NCLB082302/nclb082302.html

Appendix 5: Correlations (Spearman Rho) Between Transfer Acceptance Rates and Free Lunch Among Sending Schools (n = 100), Chicago Public Schools, 2002-03

	Accepted (%)	**Free Lunch (%)**	**Reading**	**Math**
Accepted (%)		0.42	-0.26	-0.18
p-value		0.0000	0.0004	0.0108
Free Lunch (%)	0.42		-0.80	-0.69
p-value	0.0000		0.0000	0.0000
Reading	-0.26	-0.80		0.82
p-value	0.0100	0.0000		0.0000
Math	-0.18	-0.69	0.82	
p-value	0.0700	0.0000	0.0000	

We examined the relationship between the percentage of approved transfer requests and a school's poverty rate (free lunch %) and achievement level. Under the second row, we find that transfer acceptance rates are higher in high poverty schools (r = .42). We also find that transfer acceptance rates are lower in schools with higher reading scores (r = -.26) and higher math scores (r = -.18). In other words, students were more likely to have their transfer requests approved if they attended high-poverty schools and schools with lower reading and math proficiency rates.

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