

CHAPTER 1182
OPEN ENROLLMENT
S.F. 2306

AN ACT relating to open enrollment, including the general intent, notification dates, exceptions to notification dates, board action on requests, counting of pupils for state foundation aid purposes, student expulsion or suspension, qualification for transportation, and participation of laboratory schools, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 282.18, unnumbered paragraphs 1, 2, 3, 4, 5, 9, 13, 14, and 15, Code Supplement 1989, are amended to read as follows:

It is the goal of the general assembly to permit a wide range of educational choices for children enrolled in schools in this state and to maximize ability to use those choices. It is therefore the intent that this section be construed broadly to maximize parental choice and access to educational opportunities which are not available to children because of where they live. For the school year commencing July 1, 1989, and each succeeding school year, a parent or guardian residing in a school district may enroll the parent's or guardian's child in a public school in another school district in the manner provided in this section.

By September 15 of the preceding school year the parent or guardian shall informally notify the district of residence, and not later than November 1 October 30 of the preceding school year, the parent or guardian shall send notification to the district of residence and to the department of education on forms prescribed by the department of education that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. The parent or guardian shall describe the reason that exists for enrollment in the receiving district that is not present in the district of residence. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline of October 30 of the previous year, and good cause exists for the failure to meet the deadline or if the request is to enroll a child in kindergarten in a public school in another district, the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met. The board of the district of residence shall take action on the request no later than November 30 of the preceding school year and shall transmit any approved request within five days after board action on the request. The parent or guardian may withdraw the request during November of the preceding school year unless the board of the receiving district has acted on the request. The board of the receiving district shall take action to approve or disapprove the request no later than December 31 of the preceding school year. If the request is granted, the board shall transmit a copy of the form to the receiving school district of residence within five days after its receipt board action. During the 1990-1991 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than five percent of the district's certified enrollment as compared with the district's certified enrollment for the previous 1988-1989 school year, the board of the district of residence may deny the request for the 1990-1991 school year. During the 1991-1992 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than ten percent of the district's certified enrollment as compared to the district's certified enrollment for the previous 1988-1989 school year, the board of the district of residence may deny the request for the 1991-1992 school year. If, however, a failure to transmit a request will result in enrollment of students from the same nuclear family in different school districts, the request shall be transmitted to the receiving district for enrollment. The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered. The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. In all districts involved with volunteer or court-ordered

desegregation, minority and nonminority student ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to volunteer or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests. A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1. If, however, a request to enroll a child in another district is denied by the board of the child's district of residence for failure to show good cause for not meeting the request deadline, the parent or guardian shall be permitted to appeal the decision of the board either directly to the director of the department of education or to the state board under chapter 290, but not to both. If the matter is to be heard by the director, or the director's designee, the matter shall be heard de novo in accordance with the procedures contained in chapter 17A. If a designee of the director hears the matter, the findings of the director's designee shall be reviewed by and are subject to the approval of, the director.

Each district shall provide notification to the parent or guardian relating to the transmission or denial of the request. A district of residence shall provide for notification of transmission or denial to a parent or guardian within three days of board action on the request. A receiving district shall provide notification to a parent or guardian, within fifteen days of receipt of board action on the request, of whether the child will be enrolled in that district or whether the request is to be denied.

A request under this section is for a period of not less than four years unless the pupil will graduate, the pupil's family moves to another school district, or the parent or guardian petitions the receiving district by October 30 of the previous school year for permission to enroll the child in a different district, which may include the district of residence, within the four-year period. If the parent or guardian requests permission of the receiving district to enroll the child in a different district within the four-year period, the receiving district school board may transmit a copy of act on the request to transfer to the other school district within five days of the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect court ordered or voluntary desegregation orders affecting a district. A denial of a request to change district enrollment within the four-year period shall be subject to appeal under section 290.1.

A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section means a residence under section 282.1. The board of directors of the district of residence shall pay to the receiving district the lower district cost per pupil of the two districts, plus any moneys received for the pupil as a result of non-English speaking weighting under section 442.4, subsection 6, for each school year. The district of residence shall also transmit the phase III moneys allocated to the district for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer. If a request filed under this section is for a child requiring special education under chapter 281, the request to transfer to the other district shall only be granted if the receiving district maintains a special education instructional program which is appropriate to meet the child's educational needs and the enrollment of the child in the receiving district's program would not cause the size of the class in that special education instructional program in the receiving district to exceed the maximum class size in rules adopted by the state board of education for that program. For pupils requiring special education, the board of directors of the district of residence shall pay to the receiving district the actual costs incurred in providing the appropriate special education. If a parent or guardian of a child, who is participating in open enrollment under this

section, moves to a different school district during the course of either district's academic year, the child's first district of residence shall be responsible for payment of the cost per pupil plus weightings or special education costs to the receiving school district for the balance of the school year in which the move took place. The new district of residence shall be responsible for the payments during succeeding years. If a request to transfer is due to a change in family residence, change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, and the child, who is the subject of the request, is not currently using any provision of open enrollment, the parent or guardian of the child shall have the option to have the child remain in the child's original district of residence under open enrollment with no interruption in the child's educational program. If a parent or guardian exercises this option, the child's new district of residence is not required to pay the lower of the two district costs per pupil or other costs to the receiving district until the start of the first full year of enrollment of the child. Quarterly payments shall be made to the receiving district. If the transfer of a pupil from one district to another results in a transfer from one area education agency to another, the sending district shall forward a copy of the request to the sending district's area education agency. The receiving district shall forward a copy of the request to the receiving district's area education agency. Any moneys received by the area education agency of the sending district for the child who is the subject of the request shall be forwarded to the receiving district's area education agency. A district of residence may apply to the school budget review committee if a student was not included in the resident district's enrollment count during the fall of the year preceding the student's transfer under open enrollment. Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. A receiving district shall not send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district. If the child meets the economic eligibility requirements, established under the federal National School Lunch and Child Nutrition Acts, 42 U.S.C. § 1751-1785, for free or reduced price lunches by the department and state board of education, the sending district shall be responsible for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the child to and from a point on a regular school bus route of a contiguous receiving district unless the cost of providing transportation or the pro rata cost of the transportation to a parent or guardian exceeds the average transportation cost per pupil transported for the previous school year in the district. If the cost exceeds the average transportation cost per pupil transported for the previous school year, the sending district shall only be responsible for that average per pupil amount. A sending district which provides transportation for a child to a contiguous receiving district under this paragraph may withhold from the district cost per pupil amount, that is to be paid to the receiving district, an amount which represents the average or pro rata cost per pupil for transportation, whichever is less.

A student who attends participates in open enrollment for purposes of attending a grade in grades nine ten through twelve in a school district other than the district of residence is not eligible to participate in interscholastic athletic contests and athletic competitions during the first year of enrollment under this section except for an interscholastic sport in which the district of residence and the other school district jointly participate or unless the sport in which the student wishes to participate is not offered in the district of residence. However, a pupil who has paid tuition and attended school, or has attended school pursuant to a mutual agreement between the two districts, in a district other than the pupil's district of residence for at least one school year prior to the effective date of this Act, shall be eligible to participate in interscholastic athletic contests and athletic competitions under this section, but only as a member of a team from the district that student had attended.

If a child, for which a request to transfer has been filed with a district, has been suspended or expelled in the district, the receiving district named in the request may refuse the request the child shall not be permitted to transfer until the child has been reinstated in the sending district. Once the child has been reinstated, however, the child shall be permitted to transfer in the same manner as if the child had not been suspended by the sending district. If a child, for whom a request to transfer has been filed with a district, is expelled in the district, the child shall be permitted to transfer to a receiving district under this section if the child applies for and is reinstated in the sending district. However, if the child applies for reinstatement but is not reinstated in the sending district, the receiving district may deny the request to transfer. The parent or guardian of the child shall be permitted to appeal the decision of the receiving district to the director of the department of education. If the director rules in favor of permitting the transfer, the child shall be permitted to transfer, but the transfer shall be conditioned upon the expiration of the expulsion period without the student incurring a new violation.

A laboratory school under chapter 265 shall be exempt from the provisions of this section.

If a request under this section is for transfer to a laboratory school, as described in chapter 265, the student, who is the subject of the request, shall not be included in the basic enrollment of the student's district of residence, and the laboratory school shall report the enrollment of the student directly to the department of education, unless the number of students from the district attending the laboratory school during the current school year, as a result of open enrollment under this section, exceeds the number of students enrolled in the laboratory school from that district during the 1989-1990 school year. If the number of students enrolled in the laboratory school from a district during the current year exceeds the number of students enrolled from that district during the 1989-1990 school year, those students who represent the difference between the current and the 1988-1989 school year enrollment figures shall be included in the basic enrollment of the students' districts of residence and the districts shall retain any moneys received as a result of the inclusion of the student in the district enrollment. The total number of students enrolled at a laboratory school during a school year shall not exceed six hundred seventy students. The regents' institution operating the laboratory school and the board of directors of the school district in the community in which the regents' institution is located shall develop a student transfer policy designed to protect and promote the quality and integrity of the teacher education program at the laboratory school, the viability of the education program of the local school district in which the regents' institution is located, and to indicate the order in which and reasons why requests to transfer to a laboratory school shall be considered. A laboratory school may deny a request for transfer under the policy. A denial of a request to transfer under this paragraph is not subject to appeal under section 290.1.

For purposes of this section, "good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with the definition of good cause; a change in the status of a child's resident district, such as the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan, or a similar set of circumstances consistent with the definition of good cause. If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances. The director of the department of education shall recommend rules to the state board of education for the orderly implementation of this section. The state board shall adopt rules as needed for the implementation of this section.

Sec. 2. GOOD CAUSE EXCEPTION.

For the school year commencing July 1, 1989, and ending June 30, 1990, if there was a change in the status of the child's resident district, notwithstanding the enrollment loss provisions and, if a district has a minority enrollment of less than ten percent of the total district student population, the desegregation provisions of section 282.18, a parent or guardian may file a request to use open enrollment for the balance of the 1989-1990 school year, or for succeeding years, any time prior to August 1, 1990 and the board of the district of residence shall grant the request. Children who are the subject of requests, which are filed prior to August 1, 1990, and which meet the good cause requirements for a change in the status of the children's resident district due to rejection of a whole grade sharing agreement, are not subject to the restrictions on athletic participation contained in section 282.18 if the district to which the child is to transfer under the request is or was a participant in a whole grade sharing agreement. If a pupil transfers for the balance of the 1989-1990 school year, or for succeeding years, as a result of the filing of a request prior to August 1, 1990, the sending district shall pay to the receiving district for the balance of the 1989-1990 school year, if that year is covered by the request, and for the 1990-1991 school year, only the state aid portion of the lower district cost per pupil of the two districts.

Sec. 3. Section 279.19A, subsection 3, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The board of directors of a school district may require an employee who has resigned from an extracurricular contract to accept, as a condition of employment under section 279.13, the extracurricular contract for ~~the subsequent~~ no longer than one additional school year if all the following conditions apply:

Sec. 4. JOINT STUDY.

The state board of education and the board of educational examiners shall review current rules and educational requirements relating to extracurricular contracts and licensing or endorsement requirements for teaching and nonteaching personnel who perform duties relating to school athletic programs. The state board of education and the board of educational examiners shall develop recommendations for uniform rules relating to the education and licensing of persons performing duties relating to school athletic programs and submit the recommendations in a report to the general assembly by January 1, 1992.

Sec. 5. CODIFICATION.

The Code editor shall divide section 282.18 into appropriate subsections and paragraphs.

Sec. 6.

This Act, except for section 3 of this Act being deemed of immediate importance, takes effect upon its enactment and is retroactively applicable to June 5, 1989.

Sec. 7.

Section 3 of this Act takes effect July 1, 1993.

Approved April 18, 1990