

# EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 17, "Open Enrollment," Iowa Administrative Code.

Items 1, 3, and 4 are technical and clarifying in nature or reflect previous actions of the General Assembly. The amendments in Items 1, 3, and 4 are consistent with Iowa Code section 17A.7(2), which requires that each agency conduct a comprehensive review of all of its rules each five-year period.

Item 2 incorporates an amendment to the Open Enrollment Program included in 2016 Iowa Acts, House File 2264, which was passed by the 2016 General Assembly and became effective on April 7, 2016. Changes that resulted from House File 2264 include modifying the delineation of reasons that a pupil participating in open enrollment during grades 9 through 12 is not subject to the restriction on eligibility to participate in varsity interscholastic athletic contests and athletic competitions during the pupil's first 90 school days of enrollment in the receiving district. In addition, a pupil is not subject to the restriction on eligibility for exercising open enrollment if the pupil had previously been the subject of a founded case of harassment or bullying in the district of residence.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the July 6, 2016, Iowa Administrative Bulletin as **ARC 2609C**. Public comments were allowed until 4:30 p.m. on July 26, 2016. A public hearing was held on that date. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 282.18 as amended by 2016 Iowa Acts, House File 2264.

These amendments will become effective November 16, 2016.

The following amendments are adopted.

ITEM 1. Amend subrules 17.3(1) and 17.3(2) as follows:

**17.3(1) Parent/guardian responsibilities.** On or before March 1 of the school year preceding the school year for which open enrollment is requested, a parent/guardian shall formally notify both the district of residence and the receiving district of the request for open enrollment. The request for open enrollment shall be made on forms provided by the department of education. Failure by the parent to send the form to the resident district and receiving district by the deadline may cause the application to be considered untimely. The parent/guardian is required to indicate on the form if the request is for a pupil requiring special education, as provided by Iowa Code chapter 256B. The forms for open enrollment application are available from each public school district; and area education agency; and from the state department of education.

**17.3(2) School district responsibilities.**

a. The board of the resident district shall take no action on an open enrollment request except for a request made under rule 281—17.5(282) or 281—17.14(282).

b. The board of the receiving district shall act on an open enrollment request no later than June 1 of the school year preceding the school year for which the request is made.

(1) The receiving district superintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within five days of board action.

(2) As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, applications filed on or before March 1. The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline, but the board of the receiving district shall take action to approve the request if good cause exists. The board shall have the discretion to determine the scope of the authorization. The authorization may be for regular applications filed on or before March 1, good cause applications, and kindergarten applications ~~and continuation applications~~

filed on or before September 1, or any combination that the board determines. The same timelines for approval, forwarding, and notification shall apply.

c. The parent/guardian may withdraw an open enrollment request anytime prior to the first day of school in the resident district. After the first day of school, an open enrollment request can only be changed during the term of the approval by the procedures of subrules ~~17.8(3) and 17.8(4)~~, 17.8(5), 17.8(6), and 17.8(7).

d. The board of the receiving district shall comply with the provisions of rule 281—17.11(282) if the application for open enrollment is for a pupil requiring special education as provided by Iowa Code chapter 256B.

e. Notification to parents.

(1) By September 30 of each school year, all districts shall notify parents of the following:

~~a. 1.~~ Open enrollment deadlines;

~~b. 2.~~ Transportation assistance;

~~c. 3.~~ That within 30 days of a denial of an open enrollment request by a district board of education, the parent/guardian may file an appeal with the state board of education only if the open enrollment request was based on repeated acts of harassment or a serious health condition of the ~~student~~ pupil that the district cannot adequately address; and that all other denials must be appealed to the district court in the county in which the primary business office of the district is located; and

~~d. 4.~~ Possible loss of athletic eligibility for open enrollment pupils.

(2) This notification may be published in a school newsletter, a newspaper of general circulation, a Web site, or a parent handbook provided to all patrons of the district. This information shall also be provided to any parent/guardian of a pupil who enrolls in the district during the school year.

ITEM 2. Amend subrule 17.8(2) as follows:

**17.8(2) *Restrictions on participation in interscholastic athletic contests and competitions.*** A pupil who changes school districts under open enrollment in any of the grades 9 through 12 shall not be eligible to participate in varsity interscholastic athletic contests and competitions during the first 90 school days of enrollment. This restriction also shall apply to enrollments resulting from an approved petition filed by a parent/guardian to open enroll to an alternative receiving district and when the pupil returns to the district of residence using the process outlined in subrule 17.8(4). This 90-school-day restriction does not prohibit the pupil from practicing with an athletic team during the 90 school days of ineligibility. This 90-school-day restriction is not applicable to a pupil who:

*a.* Participates in an athletic activity in the receiving district that is not available in the district of residence.

*b.* Participates in an athletic activity for which the resident district and the receiving district have a “cooperative student participation agreement” in place as provided by rule 281—36.20(280).

*c.* Has paid tuition for one or more years to the receiving school district prior to making application and being approved for open enrollment.

*d.* Has attended the receiving district for one or more years, prior to making application and being approved for open enrollment, under a sharing or mutual agreement between the resident district and the receiving district.

*e.* Has been participating in open enrollment and whose parents/guardians move out of their district of residence but exercise the option of maintaining the open enrollment agreement as provided in subrule 17.8(6) except that the period of 90 school days of ineligibility shall apply to a ~~student~~ pupil who open enrolls to another school district. If the pupil has established athletic eligibility under open enrollment, it is continued despite the parent’s or guardian’s change in residence.

*f.* Obtains open enrollment as provided in subrule 17.8(7) except that the period of 90 school days of ineligibility shall apply to a ~~student~~ pupil who open enrolls to another school district.

*g.* Obtains open enrollment due to the dissolution and merger of the former district of residence under Iowa Code subsection 256.11(12).

*h.* Obtains open enrollment due to the pupil's district of residence entering into a whole-grade sharing agreement on or after July 1, 1990, including the grade in which the pupil would be enrolled at the start of the whole-grade sharing agreement.

*i.* Participates in open enrollment and the parent/guardian is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services.

*j.* ~~Rescinded IAB 5/15/02, effective 6/19/02.~~ Open enrolls from a district of residence that has determined that the pupil was previously subject to a founded incident of harassment or bullying as defined in Iowa Code section 280.28 while attending school in the district of residence.

ITEM 3. Amend subrule 17.10(1) as follows:

**17.10(1) *Full-time pupils.*** Unless otherwise agreed to in the mediation under paragraph 17.4(6)“*b*, ” for full-time pupils, the resident district shall pay each year to the receiving district an amount equal to the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4 and the teacher leadership supplemental state cost per pupil for the previous year as provided in Iowa Code section 257.9. If the pupil participating in open enrollment is also an eligible pupil under Iowa Code section 261E.6 (postsecondary enrollment options program), the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

ITEM 4. Rescind and reserve rule **281—17.12(282).**

[Filed 9/16/16, effective 11/16/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/12/16.