

## SCHOOL ATTENDANCE AND TUITION

### **282.1 School age nonresidents.**

Persons between five and twenty-one years of age are of school age. A board may establish and maintain evening schools or an educational program under section 282.1A for residents of the corporation regardless of age and for which no tuition need be charged. Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, subsection 1, with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under section 282.7, subsection 1 or subsections 1 and 3, shall be charged tuition as provided in section 282.24, subsection 2.

For purposes of this section, "*resident*" means a child who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.
2. Meets the definitional requirements of the term "*homeless individual*" under 42 U.S.C. § 11302(a) and (c).
3. Lives in a juvenile detention center, foster care facility, or residential facility in the district.

[C73, § 1795; C97, § 2804; C24, 27, 31, 35, 39, § **4268**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.1]

83 Acts, ch 31, § 3; 88 Acts, ch 1263, §6; 89 Acts, ch 210, § 8; 92 Acts, ch 1130, § 1

### **Footnotes**

Evening schools, § 288.1

### **282.1A Extended school programs.**

1. A board of directors of a public school district may, subject to the approval of the department of education, provide an extended school program for residents of the district who are over the maximum school age established in section 282.1, who do not possess a high school diploma or a high school equivalency diploma under chapter 259A, and who are currently enrolled in an education program in the district. The educational program may be separate from or integrated into the regular school program. Residents attending the program shall be included in the district's basic enrollment and shall attend on a tuition-free basis. A district may also provide services to nonresidents under this section, and those persons shall be charged a sufficient tuition fee to cover the cost of the instruction received by the person as provided in section 282.6.

2. A district which wishes to provide an extended school program, in addition to meeting any requirements set by the department, shall establish all of the following prior to obtaining approval for the program:

*a.* There is an identified presence of resident persons who are over the maximum established school age, who do not possess a high school diploma or a high school equivalency diploma under chapter 259A.

*b.* The provision of services to these additional persons will not substantially interfere with the educational programming provided to students of school age.

*c.* The provision of services will not require additional or new facilities to meet the needs of the identified populations.

3. The department shall make recommendations for, and the state board of education shall adopt, rules which provide for the administration of extended school programs.

92 Acts, ch 1130, § 2

### **Footnotes**

Calculation of basic enrollment, § 257.6

### **282.2 Offsetting tax.**

The parent or guardian whose child or ward attends school in a district of which the parent or guardian is not a resident shall be allowed to deduct the amount of school tax paid by the parent or guardian in said district from the amount of tuition required to be paid.

[C97, § 2804; C24, 27, 31, 35, 39, § **4269**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.2]

88 Acts, ch 1158, §59

### **282.3 Admission and exclusion of pupils.**

1. The board may exclude from school children under the age of six years when in its judgment such children are not sufficiently mature to be benefited by regular instruction, or any child who is found to be physically or mentally unable to attend school under section 299.5, or whose presence in school has been found to be injurious to the health of other pupils, or is inefficiently taught for the scholastic year at a state institution. However, the board shall provide special education programs and services under chapters 256B, 257, and 273 for all children requiring special education.

2. The conditions of admission to public schools for work in the year immediately preceding the first grade and in the first grade shall be as follows:

A child under the age of six years on the fifteenth of September of the current school year shall not be admitted to a public school unless the board of directors of the school has adopted and put into effect courses of study for the school year immediately preceding the first grade, approved by the department of education, and has employed a practitioner or practitioners for this work with standards of training approved by the board of educational examiners.

No child shall be admitted to school work for the year immediately preceding the first grade unless the child is five years of age on or before the fifteenth of September of the current school year.

No child shall be admitted to the first grade unless the child is six years of age on or before the fifteenth of September of the current school year; except that a child under six years of age who has been admitted to school work for the year immediately preceding the first grade under conditions approved by the department of education, or who has demonstrated the possession of sufficient ability to profit by first-grade work on the basis of tests or other means of evaluation recommended or approved by the department of education, may be admitted to first grade at any time before December 31.

3. Nothing herein provided shall prohibit a school board from requiring the attainment of a greater age than the age requirements herein set forth.

[C97, § 2782; C24, 27, 31, 35, 39, § **4270**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.3]

#### **282.4 Suspension expulsion.**

1. The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board.

2. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault.

A student shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.

3. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension, the student shall not be permitted to enroll in a school district until the board of directors of the school district approves, by a majority vote, the enrollment of the student.

[C73, § 1735, 1756; C97, § 2782; C24, 27, 31, 35, 39, § **4271**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.4]

89 Acts, ch 210, §10; 94 Acts, ch 1131, §7; 94 Acts, ch 1199, §66; 95 Acts, ch 218, §27; 96 Acts, ch 1215, §51

#### **282.5 Readmission of student.**

When a student is suspended by a teacher, principal, or superintendent, pursuant to section 282.4, the student may be readmitted by the teacher, principal, or superintendent when the conditions of the suspension have been met, but when expelled by the board the student may be readmitted only by the board or in the manner prescribed by the board.

[R60, § 2054; C73, § 1735, 1756; C97, § 2782; C24, 27, 31, 35, 39, § **4272**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.5]

94 Acts, ch 1091, §23; 95 Acts, ch 218, §28; 96 Acts, ch 1215, § 52

#### **282.6 Tuition.**

Every school shall be free of tuition to all actual residents between the ages of five and twenty-one years and to resident veterans as defined in section 35.1, as many months after becoming twenty-one years of age as they have spent in the armed forces of the United States before they became twenty-one, provided, however, fees may be charged covering instructional costs for a summer school or drivers education program. The board of education may, in a hardship case, exempt a student from payment of the above fees. Every person, however, who shall attend any school after graduation from a four-year course in an approved high school or its equivalent shall be charged a sufficient tuition fee to cover the cost of the instruction received by the person.

This section shall not apply to tuition authorized by chapter 260C.

For purposes of this section, "*resident*" means a person who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.
2. Meets the definitional requirements of the term "*homeless individual*" under 42 U.S.C. § 11302(a) and (c).
3. Lives in a residential correctional facility in the district.

[C73, § 1724, 1727; C97, § 2773; S13, § 2773; C24, 27, 31, 35, 39, § 4273; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.6]

89 Acts, ch 210, § 11; 92 Acts, ch 1135, § 2; 99 Acts, ch 180, §14

### **282.7 Attending in another corporation payment.**

1. The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having accredited school systems. If the board designates more than one contiguous district for attendance of its pupils, the board shall draw boundary lines within the school district for determining the school districts of attendance of the pupils. The portion of a district so designated shall be contiguous to the accredited school district designated for attendance. Only entire grades may be discontinued under this subsection and if a grade is discontinued, all higher grades in that district shall also be discontinued. A school district that has discontinued one or more grades under this subsection has complied with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades. A pupil who graduates from another school district under this subsection shall receive a diploma from the receiving district. The boards of directors entering into an agreement under this section shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12. The agreement shall provide for transportation and authority and liability of the affected boards.

2. If the vocational program offered by a school district does not meet the state board of vocational education's standards for program approval, the district shall be granted one year to meet the standards for approval. If a district chooses to waive the one-year grace period, or the district fails to meet the approval standards after one year, the director of the board of vocational education shall delegate the authority to the regional planning board established pursuant to section 258.16 to direct the district to contract with another school district or a merged area school which has an approved program, for the provision of vocational education for students of the district. The district that has waived the one-year grace period or has failed to meet the approval standards shall pay to the district or merged area school that has an approved program an amount equal to the percent of the school day in which a pupil is receiving vocational education in the approved program times the district cost per pupil of the district of residence of the pupil. The regional planning board established pursuant to section 258.16 shall contract with an approved program for delivery of vocational education in the district which has failed to meet the approval standards or has waived the one-year grace period. Transportation to and from the approved program shall be provided by the school district that has waived the one-year grace period or has failed to meet approval standards. Reasonable effort shall be made to conduct the approved program at an attendance center in the district that has failed to meet the approval standards or has waived the one- year grace period.

3. Notwithstanding sections 28E.9 and 282.8, a school district may negotiate an agreement under subsection 1 for attendance of its pupils in a school district located in a contiguous state subject to a reciprocal agreement by the two state boards in the manner provided in this subsection. Prior to negotiating an

agreement with the school district in the contiguous state, the board of directors shall file a written request with the state board of education for a determination whether the school district in the contiguous state meets requirements substantially similar to those required for accredited or approved school districts in this state and the school district receives or has available services equivalent to those that would be provided in this state by an area education agency. The school district shall also obtain approval by the department of education of the sharing proposal, before the agreement becomes effective. Six months before making the request for approval, the district shall request a feasibility study from the department of education. If the state board of this state and the corresponding state board in the contiguous state agree that the school districts of their respective states meet substantially similar requirements and have substantially similar services available to the school district, and if the Iowa department of education approves the proposed contract, the two state boards may sign a reciprocal agreement for attendance of their pupils in the school district of the other state, subject to the agreement signed between the boards of directors of the two districts. A school district that negotiates an agreement with a school district in a contiguous state under this subsection is not eligible for supplementary weighting under section 257.11 as a result of that agreement.

[C51, § 1143; R60, § 2024; C73, § 1793; C97, § 2803; C24, 27, 31, 35, 39, § **4274**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.7]

83 Acts, ch 31, § 4, 5; 85 Acts, ch 212, § 13; 86 Acts, ch 1245, § 1484; 87 Acts, ch 224, §59; 88 Acts, ch 1263, §7; 89 Acts, ch 135, § 86; 89 Acts, ch 278, §7

### **282.8 Attending school outside state.**

The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and high school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road. Arrangements shall be subject to reciprocal agreements made between the chief state school officers of the respective states. Notwithstanding section 282.1, arrangements between districts pursuant to the reciprocal agreements made under this section shall establish tuition and transportation fees in an amount acceptable to the affected boards, but the tuition and transportation fees shall not be less than the lower average cost per pupil for the previous school year of the two affected school districts. For the purpose of this section average cost per pupil for the previous school year is determined by dividing the district's operating expenditures for the previous school year by the number of children enrolled in the district on the third Friday of September of the previous school year. A person attending school in another state shall continue to be treated as a pupil of the district of residence in the apportionment of the current school fund and the payment of state aid.

[C31, 35, § 4274-c1, -c2, 4275; C39, § **4274.01, 4274.02, 4275**; C46, § 282.8, 282.9, 282.17; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.8, 282.17; 81 Acts, ch 89, § 1]

87 Acts, ch 4, §1

### **282.9 Reserved.**

### **282.10 Whole grade sharing.**

1. Whole grade sharing is a procedure used by school districts whereby all or a substantial portion of the pupils in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7, subsection 1 or subsections 1 and 3. Whole grade sharing may either be one-way or two-way sharing.

2. One-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and does not receive a substantial number of pupils from those districts in return.

3. Two-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and receives a substantial number of pupils from those school districts in return.

4. A whole grade sharing agreement shall be signed by the boards of the districts involved in the agreement not later than February 1 of the school year preceding the school year for which the agreement is to take effect.

87 Acts, ch 224, §60; 88 Acts, ch 1263, §8

### **282.11 Procedure.**

Not less than ninety days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is negotiating, extending, or renewing a sharing agreement, shall publicly announce its intent to negotiate a sharing agreement under section 21.4, subsection 1. Within thirty days of the board's public notice, a petition may be filed with the department of education requesting that a feasibility study be completed. The petition shall be signed by twenty percent of the eligible electors in the district. The director of the department of education may determine that a feasibility study conducted by the board satisfies the request, provided that the study conforms with the criteria contained in section 256.9.

Not less than thirty days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is a party to a proposed sharing agreement shall hold a public hearing at which the proposed agreement is described, and at which the parent or guardian of an affected pupil and certificated employees of the school district shall have an opportunity to comment on the proposed agreement. Within the thirty-day period prior to the signing of the agreement, the parent or guardian of an affected pupil may request the board of directors to send the pupil to another contiguous school district. For the purposes of this section, "*affected pupils*" are those who under the whole grade sharing agreement are attending or scheduled to attend the school district specified in the agreement, other than the district of residence, during the term of the agreement. The request shall be based upon one of the following:

1. That the agreement will not meet the educational program needs of the pupil.
2. That adequate consideration was not given to geographical factors.

The board shall allow or disallow the request prior to the signing of the agreement, or the request shall be deemed granted. If the board disallows the request, the board shall indicate the reasons why the request is disallowed and shall notify the parent or guardian that the decision of the board may be appealed as provided in this section.

If the board disallows the request of a parent or guardian of an affected pupil, the parent or guardian, not later than March 1, may appeal the sending of that pupil to the school district specified in the agreement, to the state board of education. The basis for the appeal shall be the same as the basis for the request to the board. An appeal shall specify a contiguous school district to which the parent or guardian wishes to send the affected pupil. If the parent or guardian appeals, the standard of review of the appeal is a preponderance of evidence that the parent's or guardian's hardship outweighs the benefits and integrity of the sharing agreement. The state board may require the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, or may deny the appeal by the parent or guardian. If the state board requires the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, the tuition shall be equal to the tuition established in the sharing agreement. The decision of the state board is binding on the boards of directors of the school districts affected, except that the decision of the state board may be appealed by either party to the district court.

**282.12 Funding.**

1. An agreement for whole grade sharing shall establish a method for determination of costs, if any, associated with the sharing agreement.
2. For one-way sharing, the sending district shall pay no less than one-half of the district cost per pupil of the sending district.
3. For two-way sharing, the costs shall be determined by mutual agreement of the boards.
4. The number of pupils participating in a whole grade sharing agreement shall be determined on the third Friday of September and third Friday of February of each year.

87 Acts, ch 224, §62

**282.13 through 282.16** Reserved.

**282.17 High school outside home district.** Repealed by 83 Acts, ch 31, § 8.

**282.18 Open enrollment.**

1. 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.

2. By January 1 of the preceding school year, the parent or guardian shall send notification to the district of residence and the receiving district, 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. 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 January 1 of the previous year, and one of the criteria defined in subsection 4 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 receiving 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. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action, but not later than March 1 of the preceding school year. The parent or guardian may withdraw the request at any time prior to the start of the school year. A denial of a request by the board of a receiving district is not subject to appeal.

3. In all districts involved with voluntary or court-ordered desegregation, minority and nonminority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to voluntary 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, unless the transfer is requested by a pupil whose sibling is already

participating in open enrollment to another district, or unless the request for transfer is submitted to the district in a timely manner as required under subsection 2 prior to the adoption of a desegregation plan by the district. If 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 to the district court in the county in which the primary business office of the district is located. By July 1, 2004, the state board of education shall adopt rules establishing guidelines and a review process for school districts that adopt voluntary desegregation plans. The guidelines shall include criteria and standards that school districts must follow when developing a voluntary desegregation plan. The department of education shall provide technical assistance to a school district that is seeking to adopt a voluntary desegregation plan. A school district implementing a voluntary desegregation plan prior to July 1, 2004, shall have until July 1, 2006, to comply with guidelines adopted by the state board pursuant to this section.

4. *a.* After January 1 of the preceding school year and until the third Friday in September of that calendar year, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that good cause, as defined in paragraph "*b*", exists for failure to meet the January 1 deadline. The board of the receiving district shall take action to approve the request if good cause exists. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action. A denial of a request by the board of a receiving district is not subject to appeal.

*b.* 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 or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, a change in the status of a child's resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256F.8, 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. 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.

*c.* If a resident district believes that a receiving district is unreasonable in approving applications submitted in accordance with this subsection, the resident district may request that the department review and take appropriate action.

5. Open enrollment applications filed after January 1 of the preceding school year that do not qualify for good cause as provided in subsection 4 shall be subject to the approval of the board of the resident district and the board of the receiving district. The parent or guardian shall send notification to the district of residence and the receiving district that the parent or guardian seeks to enroll the parent's or guardian's child in the receiving district. A decision of either board to deny an application filed under this subsection involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address is subject to appeal under section 290.1. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.

6. A request under this section is for a period of not less than one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian may petition the current receiving district by January 1 of the previous school year for permission to enroll

the pupil in a different district for a period of not less than one year. Upon receipt of such a request, the current receiving district board may act on the request to transfer to the other school district at the next regularly scheduled board meeting after 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 the court-ordered or voluntary desegregation plan of the district. A denial of a request to change district enrollment within the approved period is not subject to appeal. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

7. 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 state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year. If the pupil participating in open enrollment is also an eligible pupil under chapter 261C, the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section 261C.6.

8. If a request filed under this section is for a child requiring special education under chapter 256B, 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 children 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.

9. 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 amount calculated in subsection 7, 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 pupil 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.

10. 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. However, a receiving district may 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 boards of both the sending and receiving districts agree to this arrangement. If the pupil meets the economic eligibility requirements established by the department and state board of education, the sending district is responsible for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the pupil 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 pupil to a contiguous receiving district under this subsection 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.

11. Every school district shall adopt a policy which defines the term "*insufficient classroom space*" for that district.

12. The board of directors of a school district subject to voluntary or court-ordered desegregation shall develop a policy for implementation of open enrollment in the district. The policy shall contain objective criteria for determining when a request would adversely impact the desegregation order or plan and criteria for prioritizing requests that do not have an adverse impact on the order or plan.

13. A pupil who participates in open enrollment for purposes of attending a grade in grades ten through twelve in a school district other than the district of residence is ineligible to participate in interscholastic athletic contests and athletic competitions during the pupil's first ninety school days of enrollment in the district except that the pupil may participate immediately in an interscholastic sport if the district of residence and the other school district jointly participate in the sport, if the sport in which the pupil wishes to participate is not offered in the district of residence, if the pupil chooses to use open enrollment to attend school in another school district because the district in which the student previously attended school was dissolved and merged with one or more contiguous school districts under section 256.11, subsection 12, if the pupil participates in open enrollment because the pupil's district of residence has entered into a whole grade sharing agreement with another district for the pupil's grade, or if the parent or guardian of the pupil participating in open enrollment is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services. 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 March 10, 1989, is also eligible to participate immediately in interscholastic athletic contests and athletic competitions under this section, but only as a member of a team from the district that pupil had attended. For purposes of this subsection, "*school days of enrollment*" do not include enrollment in summer school.

14. If a pupil, for whom a request to transfer has been filed with a district, has been suspended or expelled in the district, the pupil shall not be permitted to transfer until the pupil has been reinstated in the sending district. Once the pupil has been reinstated, however, the pupil shall be permitted to transfer in the same manner as if the pupil had not been suspended or expelled by the sending district. If a pupil, for whom a request to transfer has been filed with a district, is expelled in the district, the pupil shall be permitted to transfer to a receiving district under this section if the pupil applies for and is reinstated in the sending district. However, if the pupil applies for reinstatement but is not reinstated in the sending district, the

receiving district may deny the request to transfer. The decision of the receiving district is not subject to appeal.

15. 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.

16. An application for open enrollment may be granted at any time with approval of the resident and receiving districts.

17. 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.

88 Acts, ch 1113, §1; 89 Acts, ch 12, §1; 89 Acts, ch 319, §81; 90 Acts, ch 1182, § 1, 5; 90 Acts, ch 1233, § 10; 91 Acts, ch 97, §62; 91 Acts, ch 202, § 1; 92 Acts, ch 1135, § 35; 92 Acts, ch 1163, § 64; 93 Acts, ch 149, § 1; 94 Acts, ch 1091, §24; 94 Acts, ch 1131, §8; 94 Acts, ch 1175, §10; 96 Acts, ch 1157, §13; 97 Acts, ch 23, §31, 32; 2002 Acts, ch 1129, §4; 2002 Acts, ch 1140, §1723; 2002 Acts, ch 1124, §13, 16; 2003 Acts, ch 79, §5, 7, 8; 2003 Acts, ch 180, §35, 36, 72

2002 amendment to subsection 4, paragraph b, Code 2003, applies on the date the department of education initiates implementation of chapter 256F; 2002 Acts, ch 1124, § 13, 16; 2003 Acts, ch 79, §5, 7, 8

2003 amendments to subsection 3 take effect May 30, 2003, and apply retroactively to July 1, 2002; 2003 Acts, ch 180, §72

### **282.19 Child living in foster care facility.**

A child who is living in a licensed child foster care facility as defined in section 237.1, or in a facility that provides residential treatment as "*facility*" is defined in section 125.2, which is located in a school district other than the school district in which the child resided before receiving foster care may enroll in and attend an accredited school in the school district in which the child is living. The instructional costs for students who do not require special education shall be paid as provided in section 282.31, subsection 1, paragraph "*b*" or for students who require special education shall be paid as provided in section 282.31, subsections 2 or 3.

[C24, 27, 31, 35, § 4283; C39, § **4275.1, 4283, 4283.01**; C46, 50, 54, 58, 62, § 282.18, 282.22, 282.23; C66, 71, 73, 75, 77, 79, 81, § 282.18, 282.22, 282.23, 282.25; 81 Acts, ch 90, § 1]

85 Acts, ch 212, § 21; 86 Acts, ch 1244, § 34; 86 Acts, ch 1245, § 1485; 87 Acts, ch 233, §480; 89 Acts, ch 319, §74

### **282.20 Tuition fees payment.**

The school corporation in which the student resides shall pay from the general fund to the secretary of the corporation in which the student is permitted to enroll, a tuition fee as prescribed in section 282.24.

It shall be unlawful for any school district to rebate to any pupils or their parents, directly or indirectly, any portion of the tuition collected or to be collected or to authorize or permit such pupils to receive at the expense of the district, directly or indirectly, any special compensation, benefit, privilege, or other thing of value that is not and cannot legally be made available to all other pupils enrolled in its schools. Any superintendent or board members responsible for such unlawful act shall each be personally liable to a fine of not to exceed one hundred dollars. Action to recover such penalty or action to enjoin such unlawful act may be instituted by the board of any school district or by a taxpayer in any school district.

On or before February 15 and June 15 of each year the secretary of the creditor district shall deliver to the secretary of the debtor district an itemized statement of such tuition fees.

[SS15, § 2733-1a; C24, 27, 31, 35, 39, § **4277**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.20]

83 Acts, ch 31, § 6

### **282.21 Collection of tuition fees.**

If payment is not made, the board of the creditor corporation shall file with the auditor of the county of the pupil's residence a statement certified by its president specifying the amount due for tuition, and the time for which the same is claimed. The auditor shall transmit to the county treasurer an order directing the county treasurer to transfer the amount of such account from the funds of the debtor corporation to the creditor corporation, and the county treasurer shall pay the same accordingly.

[SS15, § 2733-1a; C24, 27, 31, 35, 39, § **4278**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 282.21]

**282.22 and 282.23** Repealed by 81 Acts, ch 90, § 2. See § 282.19.

### **282.24 Tuition fees established.**

1. The maximum tuition fee that may be charged for elementary and high school students residing within another school district or corporation except students attending school in another district under section 282.7, subsection 1, or subsections 1 and 3, is the district cost per pupil of the receiving district as computed in section 257.10.

A school corporation which owns facilities used as attendance centers for students shall maintain an itemized statement of the appraised value of all buildings owned by the school corporation. Beginning July 1, 1976, the appraisal shall be updated at least one time every five years.

The director of the department of education shall, after July 1 but before September 1 of each year, notify every school in the state, affected by this section, what the computed maximum tuition rate shall be for the ensuing year.

This subsection does not prevent the corporation or district in which the student resides from paying a tuition in excess of the maximum computed tuition rates, if the actual per pupil cost of the preceding year so warrants, but the receiving district or corporation shall not demand more than the maximum rate.

2. For the purpose of this section, high school means a school which commences with either grade nine or grade ten as determined by the board of directors of the district, and junior high school means the remaining grades commencing with grade seven.

[C35, § 4233-e3; C39, § **4233.3**; C46, § 279.18; C50, 54, 58, 62, 66, 71, 73, 75, § 279.18, 282.24; C77, 79, 81, § 282.24]

83 Acts, ch 31, § 7; 85 Acts, ch 212, §21; 87 Acts, ch 224, §63; 88 Acts, ch 1263, §9; 89 Acts, ch 135, § 87

**282.25** Repealed by 81 Acts, ch 90, § 2. See § 282.19.

**282.26 High school students attending advanced courses.**

The board of any community college may, by mutual agreement with any college or university, permit any specially qualified high school student to attend advanced courses of academic instruction at the college or university.

The state board of regents and the state board of education may by rule permit such students to attend any institution of higher learning under their jurisdiction. Credit earned in any such course at a college or university may be applied toward credit for high school graduation. Public school funds shall not be expended for payment of tuition or other costs for such attendance at a college or university, unless the payment is expressly permitted or required by law.

The foregoing provisions shall also apply to colleges and universities in adjacent states when the institutions are located nearer to the homes or schools of the school district than the closest college or university within the state.

[C66, 71, 73, 75, 77, 79, 81, § 282.26]

90 Acts, ch 1233, § 11; 90 Acts, ch 1253, §89

**282.27 Children living in psychiatric hospitals or institutions payment.**

The public school district in which is located a psychiatric unit of a hospital licensed under chapter 135B or a psychiatric medical institution for children licensed under chapter 135H, which is not operated by the state, shall be responsible for the provision of educational services to children residing in the unit or institution. Children residing in the unit or institution shall be included in the basic enrollment of their districts of residence, as defined in section 282.31, subsection 4.

The board of directors of each district of residence shall pay to the school district in which is located such psychiatric unit or institution, for the provision of educational services to the child, a portion of the district of residence's district cost per pupil for each of such children based upon the proportion that the time each child is provided educational services while in such unit or institution is to the total time for which the child is provided educational services during a normal school year.

92 Acts, ch 1230, § 10

**282.28 Children at Eldora and Toledo.** Repealed by 2003 Acts, ch 178, § 59.

**282.29 Children placed by district court.**

Notwithstanding section 282.31, subsection 1, a child who has been identified as requiring special education,

who has been placed in a facility or home by the district court, and for whom parental rights have been terminated by the district court, shall be provided special education programs and services on the same basis as the programs and services are provided for children requiring special education who are residents of the school district in which the child has been placed. The special education instructional costs shall be paid as provided in section 282.31, subsection 2 or 3.

87 Acts, ch 233, §482

### **282.30 Special programs.**

1. *a.* An area education agency shall provide or make provision for an appropriate educational program for each child living in the following types of facilities located within its boundaries:

(1) An approved or licensed shelter care home, as defined in section 232.2, subsection 34.

(2) An approved juvenile detention home, as defined in section 232.2, subsection 32.

*b.* The area education agency shall provide the educational program by any one of, but not limited to, the following:

(1) Providing for the enrollment of the child in the district of residence of the child, subject to the approval of the district in which the child is living.

(2) Cooperating with the district of residence of the child and obtaining the course of study and textbooks of the child for use in the special facility into which the child has been placed.

(3) Providing for the enrollment of the child in the district in which the child is living, subject to the approval of the district in which the child is living.

*c.* An area education agency shall not provide educational services to a facility specified in paragraph "*a*" unless the facility makes a request for educational services to the area education agency by either of the following dates:

(1) December 1 of the school year prior to the beginning of the school year for which the services are being requested.

(2) Ninety days prior to the beginning of the time for which the services are being requested if the facility is a newly established facility.

2. The area education agency where the child is living, the school district of residence, the other appropriate area education agency or agencies, and other appropriate agencies involved with the care or placement of the child shall cooperate with the school district where the child is living in sharing educational information, textbooks, curriculum, assignments, and materials in order to plan and to provide for the appropriate education of the child living in such facility specified in subsection 1.

87 Acts, ch 233, §483; 2000 Acts, ch 1121, §1, 2

### **282.31 Funding for special programs.**

1. *a.* A child who lives in a facility pursuant to section 282.30, subsection 1, paragraph "*a*", and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The area education agency shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall

review and approve or modify the program and proposed budget and shall notify the department of administrative services and the area education agency of its action by February 1. The department of administrative services shall pay the approved budget amount for an area education agency in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of management, taking into consideration the relative budget and cash position of the state's resources. The department of administrative services shall transfer the approved budget amount for an area education agency from the moneys appropriated under section 257.16 and make the payment to the area education agency. The area education agency shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines pursuant to section 256.7, subsection 10, and shall notify the department of administrative services of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of administrative services to the area education agency and any differences added to or subtracted from the October payment made under this paragraph for the next school year. Any amount paid by the department of administrative services shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made.

*b.* A child who lives in a facility or home pursuant to section 282.19, and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or home is located.

However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district on the third Friday of September of that school year is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of administrative services to the school district by October 1. The department of administrative services shall transfer the total amount of the approved claim of a school district from the moneys appropriated under section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid to all school districts in the state during the remainder of the subsequent fiscal year in the manner provided in paragraph "a".

2. *a.* The actual special education instructional costs incurred for a child who lives in a facility pursuant to section 282.19 or for a child who is placed in a facility or home pursuant to section 282.29, who requires special education and who is not enrolled in the educational program of the district of residence of the child but who receives an educational program from the district in which the facility or home is located, shall be paid by the district of residence of the child to the district in which the facility or home is located, and the costs shall include the cost of transportation.

*b.* A child shall not be denied special education programs and services because of a dispute over the determination of district of residence of the child. The director of the department of education shall determine the district of residence when a dispute arises regarding the determination of the district of residence for a child who requires special education pursuant to this subsection.

3. The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of administrative services to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in

the weighted enrollment of any district pursuant to section 256B.9, and the payment pursuant to subsection 2, paragraph "a", was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of administrative services of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of administrative services to the school district by October 1. The total amount paid by the department of administrative services shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for the budget year in which the deduction is made. The department of administrative services shall transfer the total amount of the approved claims from moneys appropriated under section 257.16 for payment to the school district.

4. For purposes of this section, "*district of residence*" means the school district in which the parent or legal guardian of the child resides or the district in which the district court is located if the district court is the guardian of the child.

5. Programs may be provided during the summer and funded under this section if the school district or area education agency determines a valid educational reason to do so.

87 Acts, ch 233, § 484; 88 Acts, ch 1284, § 48; 90 Acts, ch 1272, § 72; 92 Acts, ch 1163, § 66; 95 Acts, ch 214, §6, 7; 2003 Acts, ch 145, §286

### **282.32 Appeal.**

An area education agency or local school district may appeal a decision made pursuant to section 282.31 to the state board of education. The decision of the state board is final.

87 Acts, ch 233, §485; 2003 Acts, ch 178, §57

### **282.33 Funding for children residing in state mental health institutes or institutions.**

1. A child who resides in an institution for children under the jurisdiction of the director of human services referred to in section 218.1, subsection 3, 5, 7, or 8, and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The institution in which the child resides shall submit a proposed program and budget based on the average daily attendance of the children residing in the institution to the department of education and the department of human services by January 1 for the next succeeding school year. The department of education shall review and approve or modify the proposed program and budget and shall notify the department of revenue\* of its action by February 1. The department of revenue\* shall pay the approved budget amount to the department of human services in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of revenue,\* taking into consideration the relative budget and cash position of the state's resources. The department of revenue\* shall pay the approved budget amount for the department of human services from the moneys appropriated under section 257.16 and the department of human services shall distribute the payment to the institution. The institution shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines adopted pursuant to section 256.7, subsection 10, and shall notify the department of revenue\* of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of revenue\* to the department of human

services and any differences added to or subtracted from the October payment made under this subsection for the next school year. Any amount paid by the department of revenue\* shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made.

2. Programs may be provided during the summer and funded under this section if the institution determines a valid educational reason to do so and the department of education approves the program in the manner provided in subsection 1.

2003 Acts, ch 145, §286; 2003 Acts, ch 178, §58

\*Department of administrative services probably intended; corrective legislation is pending