

CHAPTER 17
OPEN ENROLLMENT

281—17.1(282) Intent and purpose. It is the intent of Iowa Code section 282.18 to maximize parental choice in providing a wide range of educational opportunities which are not available for pupils because of where they live. It is the purpose of this chapter to give guidance and direction to parents/guardians, public school district administrators and boards in making quality decisions regarding school district choice for the education of pupils.

281—17.2(282) Definitions. For the purpose of this chapter the indicated terms are defined as follows:

“Alternative receiving district” means a district to which a parent/guardian petitions for the open enrollment of a pupil from a receiving district. An alternative receiving district could be the district of residence of the parents/guardians.

“Attendance center” means a public school building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.

“Court-ordered desegregation plan” means a decree, judgment, or order entered by a court in response to a case or controversy alleging the district engaged in unlawful segregation. A desegregation plan is not “court-ordered” merely because a school district seeks approval of a voluntarily developed desegregation plan.

“Department” means the department of education.

“Director” means the director of the department of education or the director’s designee.

“Open enrollment” is the procedure allowing a parent/guardian to enroll one or more pupils in a public school district other than the district of residence at no tuition cost.

“Receiving district” is the public school district in which a parent/guardian desires to have the pupil enrolled or the district accepting the application for enrollment of a pupil under the provisions of Iowa Code section 282.18.

“Resident district” is the district of residence for school purposes of the parent/guardian and the district in which an open enrollment pupil shall be counted for the purpose of generating state aid regardless of the district in which the pupil is enrolled.

“Sending district” is synonymous with the term resident district.

“Sibling” means a child residing primarily in the same household as the child for whom an open enrollment request is filed and who is related by adoption, blood or marriage to the child for whom an open enrollment request is filed. “Sibling” also includes a foster child who is placed in the same household as the child for whom an open enrollment request is filed.

[ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.3(282) Application process. The following procedure shall be used by parents/guardians and school districts in processing open enrollment applications.

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 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 any time 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(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:

1. Open enrollment deadlines;

2. Transportation assistance;

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 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

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 website, 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.

17.3(3) Exception to process when resident district is under court-ordered desegregation. If the resident district has a court-ordered desegregation plan, the request for open enrollment shall be filed solely with the district of residence on or before March 1 of the school year preceding the school year for which open enrollment is requested. The superintendent of the resident district may deny a request under this subrule unless the request is made on behalf of a student whose sibling already actively participates in open enrollment to the same receiving district to which open enrollment is sought for this student. A denial by the superintendent may be appealed to the board of the district in which the request was denied. A decision of the local board to uphold the denial may only be appealed to the district court in the county in which is located the primary business office of the district that upheld the denial of the open enrollment request.

[ARC 2746C, IAB 10/12/16, effective 11/16/16; ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.4(282) Filing after the March 1 deadline—good cause. A parent/guardian may apply for open enrollment after the filing deadline of March 1 of the school year preceding the school year for which open enrollment is requested and before the date specified in Iowa Code section 257.6, subsection 1, of that calendar year if good cause exists for the failure to meet the deadline. Good cause is a change in the status of the pupil's residence or a change in the status of the pupil's resident district taking place after March 1, or the closing or loss of accreditation of a nonpublic school of attendance after March 1 resulting in the desire of the parent/guardian to obtain open enrollment for the following school year. If good cause can be established, the parent/guardian shall be permitted to apply for open enrollment in the same manner as if the deadline had been met pursuant to rule 17.3(282).

Consideration of an open enrollment request filed under the provision of good cause does not preclude the authority, as appropriate, for the resident or receiving district to administer board policy related to insufficient classroom space or the requirements of a desegregation plan or order in acting to approve or deny the request. (See subrules 17.6(2) and 17.6(3).)

17.4(1) Good cause related to change in the pupil's residence shall include:

- a.* A change in the family residence due to the family's moving from the district of residence any time after March 1 of the school year preceding the school year for which open enrollment is requested.
- b.* A change in the child's residence from the residence of one parent or guardian to the residence of a different parent or guardian.
- c.* A change in the state of residence allowing a parent/guardian moving into an Iowa school district from out of state to obtain open enrollment to a different district from their new district of residence.
- d.* A change in the marital status of the pupil's parents.
- e.* A guardianship or custody proceeding.
- f.* Placement of the child in foster care.
- g.* Adoption.
- h.* Participation in a foreign exchange program.
- i.* Initial placement of a prekindergarten student in a special education program requiring specially designed instruction.
- j.* Participation in a substance abuse or mental health treatment program.

17.4(2) Good cause related to change in status of the pupil's resident district or nonpublic school of attendance shall include:

- a.* Reorganization action.
 - (1) Failure of the area education board to vote in favor of a reorganization proposal,
 - (2) Failure of the area education board to act on objections to exclude territory from a reorganization proposal,
 - (3) Failure of a reorganization election,
 - (4) Rescinded IAB 3/8/00, effective 4/12/00.
- b.* Dissolution action.
 - (1) Failure of a dissolution commission to make a recommendation to the board of directors,
 - (2) Failure of the board to take positive action on objections filed by residents of the district to a dissolution proposal,
 - (3) Failure of contiguous districts to accept a dissolution proposal,
 - (4) Failure of an election on a dissolution proposal.
- c.* Whole grade sharing action.
 - (1) Failure of the board to pursue negotiations for a whole grade sharing proposal for which it has given public notice by board action of its intent to pursue,
 - (2) Failure of the board to approve a request by a parent/guardian to send an affected pupil to a contiguous district rather than to the district party to the agreement,
 - (3) Failure of the board to extend or renew a whole grade sharing agreement,
 - (4) Unilateral rejection by one board of a whole grade sharing agreement prior to expiration of the term of the agreement.
- d.* Loss of accreditation.
 - (1) Removal of accreditation by the state board after March 1.
 - (2) Surrender of accreditation after March 1.
 - (3) Permanent closure of a nonpublic school after March 1.
- e.* Other actions.
 - (1) Revocation of a charter school contract after March 1 as provided in Iowa Code section 256F.8.
 - (2) The child's assigned attendance center in the district of residence is identified as in significant need for improvement. "Significant need for improvement" means a school attendance center designated by the department of education under the priority category under the Iowa school performance profiles for two or more of the immediately preceding school years or identified for comprehensive support

and improvement under the federal Every Student Succeeds Act, Pub. L. No. 114-95, or an equivalent objective federal standard, for two or more of the immediately preceding school years.

On open enrollment requests for good cause related to a change in status of the pupil's school district of residence, action by a parent/guardian must be taken to file notification within 45 days of the last board action or within 30 days of the certification of an election, whichever circumstance is applicable.

17.4(3) Good cause shall not include:

a. Actions of a board of education in the designation of attendance centers within a school corporation and in the assignment of pupils to such centers as provided by Iowa Code section 279.11.

b. Actions of a board of education in making its own rules of government for the internal organization and operation of the school corporation as provided by Iowa Code section 279.8.

17.4(4) Rescinded IAB 8/21/02, effective 9/25/02.

17.4(5) Timelines for board action on applications filed after March 1 for good cause. The board of the receiving district shall act on the request within 30 days of its receipt. The same timelines for approval, forwarding, and notification shall apply.

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.

17.4(6) If the resident district believes that the board of the receiving district approved a late-filed open enrollment request that does not meet the definition of "good cause" under Iowa Code section 282.18(4) "b," the resident district may appeal to the director.

a. Upon affirmative vote of a majority of its board to do so, the resident district shall file a written appeal to the director within 30 days of receipt by the resident district of notification by the board of the receiving district of the approval by the receiving district of a late-filed open enrollment request. The written appeal shall state the name and grade level of the affected student, the name of the receiving district, the date of approval by the board of the receiving district, the date the resident district was notified of the approval, and a brief statement explaining why the resident district board believes there is no good cause for the request to have been filed and approved after March 1. The appeal shall be signed by the president of the board of the resident district and shall have attached to it a copy of the disputed open enrollment request and the minutes of the board meeting at which the resident district board voted to appeal. An appeal is timely filed if it is postmarked or delivered personally or via facsimile transmission or electronic mail to the director within the 30-day time period.

b. The director shall, upon receipt of an appeal, first attempt to mediate the dispute. If mediation is unsuccessful, the director shall schedule a telephonic hearing for the purpose of hearing testimony from both boards.

c. If a hearing is necessary, the boards may stipulate to any or all facts to be considered by the director. At the sole discretion of the director, an in-person hearing may be scheduled. The director shall issue a written decision within ten days of the hearing, upholding or reversing the decision of the board of the receiving district.

d. Within five days of the issuance of the decision of the director, the aggrieved board may appeal the decision to the state board of education under the procedures in Iowa Code chapter 290.

[ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.5(282) Filing after the March 1 deadline—harassment, failure to respond to academic needs, or serious health condition. A parent/guardian may apply for open enrollment after the filing deadline of March 1 of the school year preceding the school year for which open enrollment is requested if the parent's/guardian's child is the victim of repeated acts of harassment that the resident district cannot adequately address, if there is a consistent failure of the resident district to reasonably respond to a student's failure to meet basic academic standards after notice provided by a parent or guardian, or if the child has a serious health condition that the resident district cannot adequately address. If any of these conditions exists, the parent/guardian shall be permitted to apply for open enrollment by sending notification to both the resident and receiving districts.

17.5(1) Board action. The board of the resident district shall act on the request within 30 days of its receipt. If the request is denied, the parent/guardian shall be notified by the district superintendent within

3 days following board action. If the request is approved, the district superintendent shall forward the approved application form to the receiving district within 5 days following board action and shall notify the parent/guardian within 3 days of this action. The board of the receiving district shall act to approve or deny an open enrollment request within 30 days following receipt of the notice of approval from the resident district. 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 15 days of board action.

17.5(2) Appeal. A denial by either board of a request made under this rule involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address may be appealed by a parent/guardian to the state board of education pursuant to Iowa Code 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.

17.5(3) Criteria for determining whether a resident district consistently failed to reasonably respond to a student's failure to meet basic academic standards. School officials, upon having data to evidence a student's failure to meet basic academic standards and having received notice from a student's parent/guardian, must have failed to respond to the student's failure.

a. Basic academic standards include Iowa academic standards for English language arts, mathematics, science, and social studies.

b. Evidence of a student's failure to meet basic academic standards may include one or more of the following:

- (1) Failure to meet grade-level benchmarks on universal screening assessments.
- (2) Failure to achieve proficiency on standards-based outcome assessments.
- (3) Receiving a grade of D or F (or equivalent) for a course.

c. A district's consistent failure to respond may include one or more of the following, measured over a minimum period of 12 weeks:

- (1) Failure to provide evidence-based interventions or strategies targeted to the student's needs.
- (2) Failure to monitor student growth.
- (3) Failure to make changes to the student's improvement plan if the student does not show progress.

[ARC 5869C, IAB 8/25/21, effective 9/29/21; ARC 6332C, IAB 6/1/22, effective 7/6/22]

281—17.6(282) Restrictions to open enrollment requests. A district board may exercise the following restrictions related to open enrollment requests.

17.6(1) Enrollment loss caps. Rescinded IAB 12/8/93, effective 1/12/94.

17.6(2) Court-ordered desegregation plans. In districts with court-ordered desegregation plans where there is a requirement to maintain minority and nonminority student ratios according to the plan, the superintendent of the district may deny a request for open enrollment if it is found that the enrollment or release of a pupil will adversely affect the district's court-ordered desegregation plan. Open enrollment requests that would facilitate the court-ordered desegregation plan shall be given priority over other open enrollment requests received by the district. A parent/guardian whose request for open enrollment is denied by the superintendent of the district on the basis of its adverse effect on the district's court-ordered desegregation plan may appeal that decision to the district board.

17.6(3) Policy on insufficient classroom space. No receiving district shall be required to accept an open enrollment request if it has insufficient classroom space to accommodate the pupil(s). Each district board shall adopt a policy which defines the term "insufficient classroom space" for that district. This policy shall establish a basis for the district to make determinations on the acceptance or denial, as a receiving district, of an open enrollment request. This policy may include, but shall not be limited to, one or more of the following: nature of the educational program, grade level, available instructional staff, instructional method, physical space, pupil-teacher ratio, equipment and materials, facilities either being planned or under construction, facilities planned to be closed, finances available, sharing agreement in force or planned, bargaining agreement in force, special education class size or caseload established pursuant to rule 281—41.408(256B,273,34CFR300), or board-adopted district educational goals and objectives. This policy shall be reviewed annually by the district board.

17.6(4) *Designation of attendance center.* The right of a parent/guardian to request open enrollment is to a district other than the district of residence, not to an attendance center within the nonresident district. In accepting an open enrollment pupil, the receiving district board has the same authority it has in regard to its resident pupils as provided by Iowa Code section 279.11, to “determine the particular school which each child shall attend.” In the application process, however, the parent or guardian may request an attendance center of preference.

[ARC 5651C, IAB 6/2/21, effective 7/7/21; ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.7(282) Open enrollment for kindergarten or certain prekindergarten programs. While the regular time frame in requesting open enrollment is that an application should be made no later than March 1 of the school year preceding the school year for which the enrollment is requested, a parent/guardian requesting to enroll a kindergarten pupil in a district other than the district of residence or a parent/guardian of a prekindergarten student enrolled in a special education program and included in the resident school district’s basic enrollment under Iowa Code section 257.6(1)“a”(1) may make such application on or before September 1 of that school year. In considering an application for a kindergarten pupil, the resident and the receiving district are not precluded from administering board-adopted policies related to insufficient classroom space, the requirements of rule 281—17.11(282), or the requirements of a desegregation order.

As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, applications filed on or before September 1 under this rule. The timelines established in rule 281—17.4(282) shall apply to applications for a pupil under this rule.

[ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.8(282) Requirements applicable to parents/guardians and students.

17.8(1) *Expelled or suspended students.* A pupil who has been suspended or expelled by action of the administration or board of the resident district shall not be permitted to enroll if an open enrollment request is filed until the pupil is reinstated for school attendance in the resident district. Once reinstated, the application for open enrollment shall be considered in the same manner as any other open enrollment request. If a pupil for whom an open enrollment request has been filed is subsequently expelled by action of the resident district board, the pupil may be denied enrollment by the receiving district board until the pupil is reinstated for school attendance by the resident district. The provisions of this subrule shall also apply to a pupil who has been suspended or expelled in a receiving district and is requesting open enrollment to an alternative receiving district or is seeking to return to the resident district as outlined in subrule 17.8(4).

17.8(2) *Restrictions on participation in interscholastic athletic contests and competitions.* Subject to rule 281—17.15(282), 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. If a pupil is declared ineligible for interscholastic athletic contests and athletic competitions in the pupil’s district of residence due to the pupil’s academic performance, upon participating in open enrollment, in addition to any other period of ineligibility under this rule, the pupil shall be ineligible in the receiving district for the remaining period of ineligibility declared by the district of residence. 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 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 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. 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.

k. Participates in open enrollment because of circumstances that meet the definition of "good cause" under rule 281—17.4(282).

l. Resides in a district in which the board of directors or superintendent issues or implements a decision that results in the discontinuance or suspension of varsity interscholastic sports activities in the district.

m. Participates in open enrollment and the board of directors of the district of residence and the board of directors of the receiving district both agree to waive the ineligibility period.

n. Open enrolls for the school year beginning July 1, 2021, if the pupil's district of residence had a voluntary diversity plan in effect on January 1, 2021, and applicable to the school year beginning July 1, 2021.

17.8(3) *Term of enrollment.* Rescinded IAB 10/9/96, effective 11/13/96.

17.8(4) *Petition for attendance in an alternative receiving district.* Once the pupil of a parent/guardian has been accepted for open enrollment, attendance in an alternative receiving district under open enrollment can be initiated by filing a petition for change with the receiving district. The petition shall be filed by the parent/guardian with the receiving district on or before March 1 of the year preceding the school year for which the change is requested. The timelines and notification requirements for such a request shall be the same as outlined in subrule 17.3(2). If the request is approved, the alternative district shall send notice of this action to the parent/guardian, to the original receiving district, and to the resident district of the pupil. Petitions for change shall be effectuated at the start of the next school year.

As an alternative procedure, the receiving and alternative receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a written request for such change which is approved by the two boards. The parent/guardian and the resident district board shall be notified of the approval and the date for change in open enrollment within 15 days of the mutual agreement action of the receiving and alternative receiving boards.

A pupil in good standing may return to the district of residence at any time following written notice from the parent/guardian to both the resident district and the receiving district.

17.8(5) *Renewal of an open enrollment agreement.* An open enrollment agreement shall remain in place unless canceled by the parent/guardian or terminated as outlined in the provisions of subrule 17.8(10).

17.8(6) *Change in residence when participating in open enrollment.* If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the

agreement, the parent/guardian shall have the option to leave the pupil in the receiving district under open enrollment, to open enroll to another school district, or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment or to open enroll to another school district, the district of residence, as determined on the date specified in Iowa Code section 257.6(1), shall be responsible for payment of the cost per pupil plus any applicable weightings or special education costs for the balance of the school year. The new district of residence shall be responsible for these payments during succeeding years of the agreement.

If the pupil is to remain under open enrollment or to open enroll to another school district, the parent/guardian shall write a letter, delivered by mail or by hand on or before the date specified in Iowa Code section 257.6(1), to notify the original resident district, the new resident district, and the receiving district of this decision.

Timely requests under this rule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2).

17.8(7) *Change in residence when not participating in open enrollment.* If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program or to open enroll to another school district. This option is not available to the parent/guardian of a student who is entering kindergarten for the first time. The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. This request shall be made on or before the date specified in Iowa Code section 257.6(1). Timely requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2). If the move is on or after the date specified in Iowa Code section 257.6(1), the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

a. This subrule applies in the following circumstances: a change in family residence, a change in a child's residence from the residence of one parent or guardian to the residence of a different parent or guardian, 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.

b. This rule applies to the following children:

- (1) A child who is enrolled in any grade from kindergarten through grade 12.
- (2) A prekindergarten student who is enrolled in a special education program at the time of the request and is not currently using any provision of open enrollment.

17.8(8) *Pupil governance.* An open enrollment pupil, and where applicable the pupil's parent/guardian, shall be governed by the rules and policies established by the board of directors of the receiving district. Any complaint or appeal by the parent/guardian concerning the educational system, its process, or administration in the receiving district shall be initially directed to the board of directors of that district in compliance with the policy of that district.

17.8(9) *Appeal procedure.* A parent/guardian may appeal the decision of the board of directors of a school district (resident or receiving) only on an application for open enrollment under Iowa Code section 282.18(5) and rule 281—17.5(282). This appeal is to the state board of education and shall comply with the provisions of Iowa Code section 290.1. The appeal shall be filed within 30 days of the decision of the district board and shall be in the form of an affidavit signed by the parent/guardian. It shall state in a plain and concise manner what the parent/guardian feels to be the basis for appeal.

17.8(10) *Open enrollment termination.* Open enrollment ends when:

a. The pupil graduates, moves into the receiving district, moves into a third district and does not elect to continue attending in the receiving district, moves out of state, elects to attend a nonpublic school instead of the receiving district, or any other circumstance not excepted below that results in the pupil no longer attending the receiving district.

EXCEPTIONS: This rule shall not apply if the pupil is placed temporarily in foster care, a juvenile detention center, mental health or substance abuse treatment facility, or other similar placement. In such cases, the open enrollment status will automatically be reinstated when the pupil returns.

b. The pupil drops out of school. In this instance, if the pupil desires to return to the resident district during the term of the original open enrollment, notice must be given as outlined in the provisions of subrule 17.8(4).

[ARC 2746C, IAB 10/12/16, effective 11/16/16; ARC 4296C, IAB 2/13/19, effective 3/20/19; ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.9(282) Transportation.

17.9(1) Parent responsibilities. The parent/guardian of a pupil who has been accepted for open enrollment shall be responsible to transport the pupil without reimbursement, except as provided in subrule 17.9(2), to and from a point on a regular school bus route of the receiving district. This point shall be a designated stop on the bus route of the receiving district. If this point—designated stop—is within the distances established by Iowa Code section 285.1 from the school designated for attendance by the receiving district, that district may, but is not required to, provide transportation for an open enrollment pupil. A receiving district may send buses into a resident district solely for the purpose of transporting an open enrollment pupil if the boards of both the sending and receiving districts agree to this arrangement. Bus routes that are outside the boundary of the receiving district that have been authorized by an area education agency board of directors, as provided by Iowa Code subsection 285.9(3), may be used to transport open enrollment pupils if boards of directors of the resident and receiving districts have both taken action to approve such an arrangement. Bus routes that have been established by the receiving district for the purpose of transporting nonpublic school or special education pupils that operate in the resident district of an open enrollment pupil shall not be utilized for the transportation of such pupil for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both taken action to approve such an arrangement. Bus routes transporting pupils for the purpose of whole-grade sharing shall not be used to transport open enrollment pupils for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both taken action to approve such an arrangement.

17.9(2) Qualifications and provisions for transportation assistance. Open enrollment pupils that meet the economic eligibility requirements established by the department of education shall receive transportation assistance from their resident district under the following conditions. The resident district is not required to provide any transportation assistance for a pupil involved in open enrollment with a district that is not contiguous with the pupil's resident district. The resident district shall provide transportation for the pupil to a point that is a designated stop on a regular bus route of a contiguous receiving district, or as an alternative, the resident district shall pay the parent/guardian for providing this transportation. In either situation the resident district is not obligated to expend more than the average cost per pupil transported amount established for that district for the previous school year. If the resident district provides the transportation, it shall determine that it is able to perform this function at a cost not in excess of the average cost per pupil transported for the resident district as established the previous year. It shall not assess any additional cost to the parent/guardian for providing transportation. If the district chooses to reimburse the parent/guardian for providing transportation, to determine the amount to be reimbursed, the district shall use the provisions of Iowa Code subsection 285.1(3). This reimbursement shall not exceed the average cost per pupil transported for the resident district as established the previous year. The resident district may withhold from the amount it is required to pay to a receiving district for an open enrollment pupil the actual amount or the average cost per pupil transported amount it pays for transportation assistance, whichever is the lesser amount.

17.9(3) Economic eligibility requirements for transportation. A parent/guardian shall be eligible for transportation assistance from the resident district if the household income of the parent/guardian is 200 percent or less of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services. Since the federal

poverty income guidelines are adjusted each year, the department of education shall provide revised eligibility guidelines to school districts each year.

[ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.10(282) Method of finance. Open enrollment options shall be made available for pupils at no instructional cost to their parents/guardians. Open enrollment pupils shall be considered enrolled resident pupils in the resident district and shall be included in the certified enrollment count of that district for the purposes of generating school foundation aid.

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 sum of 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; plus either the teacher leadership supplement state cost per pupil for the previous year as provided in Iowa Code section 257.9(11) or the teacher leadership supplement foundation aid allocation for fiscal year 2017 as provided in Iowa Code section 284.13(1) “e,” whichever the district received, if both the district of residence and the receiving district received either of the supplements. 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.

17.10(2) Dual enrolled pupils. Unless otherwise agreed to in the mediation under paragraph 17.4(6) “b,” for pupils who receive competent private instruction and are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to .1 times 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. However, a pupil dual enrolled in grades nine through twelve shall be counted by the receiving district in the same manner as a shared-time pupil under Iowa Code section 257.6(1) “c.”

17.10(3) Home school assistance program pupils. Unless otherwise agreed to in the mediation under paragraph 17.4(6) “b,” for pupils who receive competent private instruction and are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal to .3 times the state cost per pupil under Iowa Code chapter 257 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.

17.10(4) Transportation assistance. The resident district may deduct any transportation assistance funds for which the pupil is eligible as provided by subrule 17.9(2).

17.10(5) Method of payment. These moneys shall be paid to the receiving district by the first resident district according to the timeline in Iowa Code section 282.20(3) (on or before February 15 and July 15 of each year). Payments shall be made to the receiving district in a timely manner. The district cost per pupil for nonspecial education students shall be the cost calculated each year for the school year preceding the school year for which the open enrollment takes place. Costs for special education students shall be as outlined in rule 281—17.11(282).

17.10(6) Partial-year situations. In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at midyear, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of cost per pupil will be prorated.

17.10(7) Late changes of open enrollment. The resident district and the receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a petition for such change which is approved by the two boards. A change due to good cause is a late change in enrollment. If any change in enrollment is made on or after the date specified in Iowa Code section 257.6, subsection 1, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

17.10(8) Supplemental weighting. A student under open enrollment is eligible to be counted for supplementary weighting pursuant to 281—subrule 97.2(5) for qualifying concurrent enrollment classes in which the student is enrolled, including concurrent enrollment classes provided via the ICN, or supplementary weighting for project lead the way (PLTW) enrollment through sharing with a community college pursuant to 281—subrule 97.2(6). An open enrolled student who is under competent private instruction (CPI) shall be weighted in the student's receiving district, and no tuition shall be billed to the resident district. An open enrolled student who is not under CPI shall be weighted in the resident district, and the funding shall be sent to the receiving district in addition to open enrollment tuition.

a. If the open enrolled student is present in the resident district on October 1 of the school year, the resident district shall count the student, excluding a student under CPI, for supplementary weighting.

b. The concurrent enrollment course must qualify for supplementary weighting in the receiving district pursuant to 281—subrule 97.2(5), and the PLTW course must qualify for supplementary weighting in the receiving district pursuant to 281—subrule 97.2(6).

c. The resident district shall forward the weighting generated for the concurrent or PLTW enrollment for that student using the district cost per pupil of the school year. The amount generated is calculated as the supplementary weighting full-time-equivalency for that one student for each qualified concurrent or PLTW enrollment course multiplied by the current school year's district cost per pupil in the resident district.

d. The receiving district shall pay the community college the tuition negotiated for the course. The tuition negotiated may cost the receiving district a different amount than that received from the resident district. No additional amount may be charged to the resident district, the student, or the parent, guardian, or legal custodian.

e. If the student was not present in the resident district on October 1 of the school year and is a late transfer, the receiving district bears all the tuition cost and shall not bill the resident district in the first year pursuant to subrule 17.10(7).

17.10(9) Open enrollment pursuant to rule 281—17.15(282). If a pupil participates in cocurricular or extracurricular activities in accordance with subrule 17.15(2), the district of residence may deduct up to \$200 per activity, for up to two activities, from the amount calculated in this rule. For a cocurricular activity, one semester shall equal one activity. Extracurricular activities for which such a resident district may charge up to \$200 per activity for up to two activities under this subrule include interscholastic athletics, music, drama, and any other activity with a general fund expenditure exceeding \$5,000 annually. A pupil may participate in additional extracurricular activities at the discretion of the resident district. The school district of residence may charge the pupil a fee for participation in such cocurricular or extracurricular activities equivalent to the fee charged to and paid in the same manner by other resident pupils.

[ARC 9261B, IAB 12/15/10, effective 1/19/11; ARC 0521C, IAB 12/12/12, effective 1/16/13; ARC 2746C, IAB 10/12/16, effective 11/16/16; ARC 3181C, IAB 7/5/17, effective 8/9/17; ARC 4296C, IAB 2/13/19, effective 3/20/19]

281—17.11(282) Special education students. If a parent/guardian requests open enrollment for a pupil requiring special education, as provided by Iowa Code chapter 256B and 281—Chapter 41, this request shall receive consideration under the following conditions.

17.11(1) Appropriateness of program. The request shall be granted only if the receiving district is able to provide within that district the appropriate special education program for that student in accordance with Iowa rules of special education, 281—Chapter 41. This determination shall be made by the receiving district in consultation with the resident district and the appropriate area education agency(ies) before approval of the application. In a situation where the appropriateness of the program is in question, the pupil shall remain enrolled in the program of the resident district until a final determination is made, unless all parties otherwise agree, as provided in 281—Chapter 41. If the appropriateness of the special education program in the receiving district is at issue, the final determination of the appropriateness of a special education instructional program shall be the responsibility of the child's individualized education program team, which shall include a representative

from the resident district that has the authority to commit district resources, and which decision is subject to the parent's procedural safeguards under 281—Chapter 41.

17.11(2) *Class size and caseload.* The provisions of subrule 17.6(3) apply to requests for open enrollment for a child with a disability. The following conditions apply:

a. The enrollment of the child in the receiving district's program would not cause the size of the class or caseload in that special education instructional program in the receiving district to exceed the maximum class size or caseload set forth in subrule 17.6(3).

b. If the child would be assigned to a general education class, there is sufficient classroom space, as established in subrule 17.6(3), for the general education class to which the child would be assigned.

17.11(3) *Transportation.* District transportation requirements, parent/guardian responsibilities and, where applicable, financial assistance for an open enrollment special education pupil shall be as provided by rules 281—17.9(282) and 281—41.412(256B,34CFR300).

17.11(4) *Finance.* The district of residence shall pay to the receiving district on the schedule set forth in subrule 17.10(5) the actual costs incurred by the receiving district in providing the appropriate special education program. These costs shall be based on the current year expenditures with needed adjustments made in the final payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil shall rest with the resident district. The receiving district and the receiving area education agency director shall provide, at least on an annual basis, evaluation reports and information to the resident district on each special education open enrollment pupil. The receiving district shall provide notice to the resident district of all staffings scheduled for each open enrollment pupil. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, the resident district and the receiving district are required to forward a copy of any approved open enrollment request to the director of special education of their respective area education agencies. Any moneys received by the area education agency of the resident district for an approved open enrollment special education pupil shall be forwarded to the receiving district's area education agency. For children requiring special education, the receiving district shall complete and provide to the district of residence the documentation necessary to seek Medicaid reimbursement for eligible services.

[ARC 3181C, IAB 7/5/17, effective 8/9/17; ARC 5651C, IAB 6/2/21, effective 7/7/21; ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.12(282) *Laboratory school provisions.* Rescinded ARC 2746C, IAB 10/12/16, effective 11/16/16.

281—17.13(282) *Applicability.* Rescinded ARC 5869C, IAB 8/25/21, effective 9/29/21.

281—17.14(282) *Court-ordered desegregation plans.*

17.14(1) *Applicability.* These rules govern only the components of a court-ordered desegregation plan as the plan affects open enrollments.

17.14(2) *Nature of court-ordered desegregation plan.* The language of the court order shall be binding on a district's implementation of open enrollment. The district shall notify the department of any court-ordered desegregation plan and any court-ordered modifications to that plan.

This rule is intended to implement Iowa Code section 282.18 as amended by 2021 Iowa Acts, House File 228.

[ARC 5869C, IAB 8/25/21, effective 9/29/21]

281—17.15(282) *Open enrollment and online coursework.*

17.15(1) *General.* A school district may provide courses developed by private providers and delivered primarily over the Internet to pupils who are participating in open enrollment under Iowa Code section 282.18. However, if a student's participation in open enrollment to receive educational instruction and course content delivered primarily over the Internet results in the termination of enrollment in the receiving district, the receiving district shall, within 30 days of the termination, notify the district of residence of the termination and the date of the termination.

17.15(2) *Participation in activities in resident district.* A pupil participating in open enrollment for purposes of receiving educational instruction and course content primarily over the Internet in accordance with Iowa Code section 256.7(32) may participate in any cocurricular or extracurricular activities offered to children in the pupil's grade or group and sponsored by the district of residence under the same conditions and requirements as the pupils enrolled in the district of residence. The pupil may participate in not more than two cocurricular or extracurricular activities during a school year unless the resident district approves the student's participation in additional activities. The student shall comply with the eligibility, conduct, and other requirements relating to the activity that are established by the district of residence for any student who applies to participate or who is participating in the activity.

[ARC 4296C, IAB 2/13/19, effective 3/20/19]

These rules are intended to implement Iowa Code section 282.18.

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