

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." For purposes of this paragraph, "good cause" means a change in a child's residence due to 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 or custody proceeding; placement in foster care; adoption; participation in a foreign exchange program; 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 Iowa Code section 256E.10 or 256F.8; the failure of negotiations for a whole grade sharing agreement, reorganization plan, or dissolution agreement; the rejection of a current whole grade sharing agreement or reorganization plan; or any other reason specified in Iowa Code section 282.18(11) "a"(9).

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 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 for not less than one year.

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 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, to notify the original resident district, the new resident district, and the receiving district of this decision.

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. The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. 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. Rescinded IAB 8/24/22, effective 8/5/22.

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; **ARC 6483C**, IAB 8/24/22, effective 8/5/22; **ARC 6726C**, IAB 12/14/22, effective 1/18/23]