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Iowa Code Annotated [Currentness](#)

Title VII. Education and Cultural Affairs [Chs. 256-305B]

▢ [Subtitle 6. School Districts \[Chs. 273-302\]](#)

▢ [Chapter 282. School Attendance and Tuition \(Refs & Annos\)](#)

→ **282.18. Open enrollment**

<Section effective until July 1, 2010.>

<[Text subject to final changes by the Iowa Code Editor for Code Supp. 2009.]>

1. a. 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.

b. 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. a. By March 1 of the preceding school year for students entering grades one through twelve, or by September 1 of the current school year for students entering kindergarten, 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 specified in this subsection, the procedures of subsection 4 apply.

b. 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. The board of directors of a receiving district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications. 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 June 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.

c. Every school district shall adopt a policy which defines the term “insufficient classroom space” for that district.

3. a. The superintendent of a district subject to a voluntary diversity or court-ordered desegregation plan, as recognized by rule of the state board of education, 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 diversity 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 diversity or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

b. A parent or guardian, whose request has been denied because of a desegregation order or diversity 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. The state board of education shall adopt rules establishing definitions, guidelines, and a review process for school districts that adopt voluntary diversity plans. The guidelines shall include criteria and standards that school districts must follow when developing a voluntary diversity plan. The department of education shall provide technical assistance to a school district that is seeking to adopt a voluntary diversity plan. A school district implementing a voluntary diversity plan prior to July 1, 2008, shall have until July 1, 2009, to comply with guidelines adopted by the state board pursuant to this section.

c. The board of directors of a school district subject to voluntary diversity 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 voluntary diversity plan and criteria for prioritizing requests that do not have an adverse impact on the order or plan.

4. a. After March 1 of the preceding school year and until the date specified in [section 257.6, subsection 1](#), 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 March 1 deadline. 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. 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 violating this subsection, the resident district may, within fifteen days after board action by the receiving district, submit an appeal to the director of the department of education.

d. The director, or the director's designee, shall attempt to mediate the dispute to reach approval by both boards as provided in subsection 14. If approval is not reached under mediation, the director or the director's designee shall conduct a hearing and shall hear testimony from both boards. Within ten days following the hearing, the director shall render a decision upholding or reversing the decision by the board of the receiving district. Within five days of the director's decision, the board may appeal the decision of the director to the state board of education under the procedures set forth in chapter 290.

5. Open enrollment applications filed after March 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 March 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 [section 261E.6](#), the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in [section 261E.7](#).

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. a. 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.

b. 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 enrolled in any grade from kindergarten through grade twelve at the time of the request and 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 kindergarten through grade twelve 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.

c. Quarterly payments shall be made to the receiving district.

d. 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.

e. 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. a. 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. For purposes of this subsection, "a point on a regular school bus route of the receiving district" includes any school bus stop on the regular school bus route of the receiving district that existed prior to road construction that necessitates a change in the regular school bus route, whether or not the change in the regular school bus route resulting from the road construction necessitates sending school vehicles from the receiving district into the district of residence in order to safely, economically, or efficiently transport students to or from the preexisting point.

b. 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.

c. 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. A pupil who participates in open enrollment for purposes of attending a grade in grades nine through twelve in a school district other than the district of residence is ineligible to participate in varsity 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 a varsity interscholastic sport if the pupil is entering grade nine for the first time and did not participate in an interscholastic athletic competition for another school or school district during the summer immediately following eighth grade, 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 contigu-

ous 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 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" does not include enrollment in summer school. For purposes of this subsection, "varsity" means the same as defined in [section 256.46](#).

12. 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.

13. 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](#).

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

15. 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.

CREDIT(S)

Added by Acts 1988 (72 G.A.) ch. 1113, § 1. Amended by Acts 1989 (73 G.A.) ch. 12, § 1, eff. March 10, 1989; Acts 1989 (73 G.A.) ch. 319, § 81; Acts 1990 (73 G.A.) ch. 1182, §§ 1, 5, eff. April 18, 1990; Acts 1990 (73 G.A.) ch. 1233, § 10; Acts 1991 (74 G.A.) ch. 97, § 62; Acts 1991 (74 G.A.) ch. 202, § 1; Acts 1992 (74 G.A.) ch. 1135, §§ 3 to 5; Acts 1992 (74 G.A.) ch. 1163, § 64; Acts 1993 (75 G.A.) ch. 149, § 1; Acts 1994 (75 G.A.) ch. 1091, § 24; Acts 1994 (75 G.A.) ch. 1131, § 8; Acts 1994 (75 G.A.) ch. 1175, § 10; Acts 1996 (76 G.A.) ch. 1157, §§ 1 to 3; Acts 1997 (77 G.A.) ch. 23, §§ 31, 32; Acts 2002 (79 G.A.) ch. 1124, § 13, eff. July 1, 2003; Acts 2002 (79 G.A.) ch. 1129, § 4; Acts 2002 (79 G.A.) ch. 1140, §§ 17 to 23; Acts 2003 (80 G.A.) ch. 79, § 5, eff. April 28, 2003; Acts 2003 (80 G.A.) ch. 180, § 35, eff. May 30, 2003; Acts 2003 (80 G.A.) ch. 180, § 36; Acts 2005 (81 G.A.) ch. 79, H.F. 423, § 2; Acts 2005 (81 G.A.) ch. 179, H.F. 882, §§ 93 to 95; Acts 2006 (81 G.A.) ch. 1152, S.F. 2272, §§ 41 to 43; Acts 2008 (82 G.A.) ch. 1071, H.F. 2164, § 1; Acts 2008 (82 G.A.) ch. 1181, H.F. 2679, § 64; Acts 2009 (83 G.A.) S.F. 177, § 1; Acts 2009 (83 G.A.) S.F. 449, § 104.

HISTORICAL AND STATUTORY NOTES

1996 Main Volume

Acts 1989 (73 G.A.) ch. 12 rewrote the section which prior thereto read:

“It is the intent of the general assembly to allow a pupil with special and exceptional needs to enroll in a district contiguous to the pupil's resident district if the contiguous district offers coursework or programs, not already available to the pupil, that would meet the needs of the pupil.

“1. Except as provided in subsection 2, for the school year commencing July 1, 1990, and each succeeding school year, a parent or guardian residing in a school district may be allowed to enroll the parent's or guardian's child or ward in a public school in a contiguous school district as provided in this section.

“Not later than November 1, 1989, or not later than November 1 of the preceding school year, the parent or guardian shall notify the district of residence and the department of education that the parent or guardian intends to enroll the parent's or guardian's child or ward in a contiguous school district. Notice shall be made in the form and manner prescribed by the department of education and shall contain a description of the substantial educational opportunities necessary and available for the child in the receiving district that are not available in the district of residence and a statement that the child intends to take advantage of the opportunity before graduation. The state board of education shall adopt rules under chapter 17A by January 1, 1989, that define substantial educational opportunity. The definition shall include, but not be limited to, whether the contiguous district offers

coursework or programs not available in the district of residence. A request under this section is for a period of not less than four years, unless the pupil will graduate within the four-year period.

“The board of directors of the district of residence shall approve or disapprove the request within thirty days of receipt of the parent's and guardian's notice. The parent or guardian may appeal the decision of the board under chapter 290. If the parent or guardian appeals to the state board of education, the parent or guardian must prove by substantial evidence to the state board that the conditions listed in the request exist and the denial of the request of the parent or guardian was an abuse of discretion by the board of the district of residence.

“Following approval of the transfer, the board of the district of residence shall transmit a copy of the form to the contiguous school district. The board of the contiguous school district shall enroll the pupil in a school in the contiguous district for the following school year, unless the contiguous school district does not have classroom space for the pupil or enrolling the pupil in the contiguous district will adversely affect the minority enrollment in the resident or contiguous school district because of voluntary or court ordered desegregation. The child shall, however, be included in the basic enrollment of the district of residence for purposes of section 442.4.

“The board of directors of the district of residence shall pay to the receiving school district an amount which is equal to the lesser of the state aid portion of the resident district's cost per pupil or the state aid of the receiving district's cost per pupil. For the purpose of this section, “state aid portion of a district's cost per pupil” is the state foundation aid for the budget year received by the district under section 442.26 for regular program costs divided by the district's basic enrollment for the budget year. In addition, the state aid amount shall include moneys received under sections 294A.9 and 294A.14. If the amount paid to the receiving school district is not equal to that district's cost per pupil, the receiving district has the option of either accepting the amount paid by the district of residence, or billing the parent or guardian for the difference between the district cost per pupil and the amount received from the district of residence. The district of residence may reimburse the parent for any difference paid to the receiving district. Quarterly payment shall be made to the receiving district. Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. A parent or guardian who chooses to reenroll the child in the district of residence, or to enroll the child in another school district, during the four-year period covered by the request, shall pay the maximum tuition fee to the enrolling district pursuant to section 282.24. However, the tuition fee requirement does not apply if a child is enrolled in another school district, during the four-year period covered by the request, because of a change in the child's place of residence.

“A student who attends school in a contiguous school district is not eligible to participate in interscholastic athletic contests and athletic competitions during the first year of enrollment under this section except for an interscholastic sport in which the district of residence and the contiguous school district jointly participate.

“2. This section does not apply if the contiguous district, in which the parent or guardian wishes to enroll their child, is a party to a sharing agreement, which covers the request, with the district of residence under sections

282.7 through 282.12. If a resident or receiving district is participating in a reorganization study under chapter 275, subsection 1 shall not be available to a parent or guardian until the study is completed.”

Acts 1989 (73 G.A.) ch. 319 rewrote unnum. pars. 2 to 4 and 9 to 12 which prior thereto read:

“By September 15 of the preceding school year the parent or guardian shall informally notify the district of residence, and not later than November 1 of the preceding school year, the parent or guardian shall send notification to the district of residence and to the department of education on forms prescribed by the department of education that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. The parent or guardian shall describe the reason that exists for enrollment in the receiving district that is not present in the district of residence. The board of the district of residence shall transmit a copy of the form to the receiving school district within five days after its receipt. During the 1990-1991 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than five percent of the district's certified enrollment for that year, the board of the district of residence may deny the request for the 1990-1991 school year. If, however, a failure to transmit a request will result in enrollment of students from the same nuclear family in different school districts, the request shall be transmitted to the receiving district for enrollment. The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered. The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. In all districts involved with volunteer or court-ordered desegregation, minority and nonminority student ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to volunteer or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests. A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1.

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

“The board of directors of the district of residence shall pay to the receiving district the lower district cost per

pupil of the two districts, plus any moneys received for the pupil as a result of non-English speaking weighting under section 442.4, subsection 6, for each school year. The district of residence shall also transmit the phase III moneys allocated to the district for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer. However, if the district of residence has outstanding obligations on school bonds, has entered into a rental or lease arrangement under section 279.26, or has entered into a loan agreement in anticipation of the collection of the schoolhouse tax under section 297.36, only fifty percent of the property tax portion of the district cost per pupil shall be paid to the receiving district for the first three years of the transfer, unless the debt is paid before the end of the three years. If the debt is paid in less than three years from the date of the transfer or if three years pass, from the date of the transfer, without retirement of the district of residence's debt obligation, whichever date is sooner, the full amount of the district cost per pupil shall then be paid to the receiving district. If a request filed under this section is for a child requiring special education under chapter 281, the request to transfer to the other district shall only be granted if the receiving district maintains a special education instructional program which is appropriate to meet the child's educational needs and the enrollment of the child in the receiving district's program would not cause the size of the class in that special education instructional program in the receiving district to exceed the maximum class size in rules adopted by the state board of education for that program. For pupils requiring special education, the board of directors of the district of residence shall pay to the receiving district the actual costs incurred in providing the appropriate special education. Quarterly payments shall be made to the receiving district. If the transfer of a pupil from one district to another results in a transfer from one area education agency to another, the sending district shall forward a copy of the request to the sending district's area education agency. The receiving district shall forward a copy of the request to the receiving district's area education agency. Any moneys received by the area education agency of the sending district for the child who is the subject of the request shall be forwarded to the receiving district's area education agency. Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. A receiving district shall not send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district, unless the child meets the economic eligibility requirements, established under the federal National School Lunch and Child Nutrition Acts, [42 U.S.C. § 1751-1785](#), for free or reduced price lunches. If the child meets those requirements, the sending district shall be responsible for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the child to and from a point on a regular school bus route of a contiguous receiving district unless the cost of providing transportation or the pro rata cost of the transportation to a parent or guardian exceeds the average transportation cost per pupil transported for the previous school year in the district. If the cost exceeds the average transportation cost per pupil transported for the previous school year, the sending district shall only be responsible for that average per pupil amount. A sending district which provides transportation for a child to a contiguous receiving district under this paragraph may withhold from the district cost per pupil amount, that is to be paid to the receiving district, an amount which represents the average or pro rata cost per pupil for transportation, whichever is less.”

“A student who has been paying tuition and attending school in a district other than the student's district of residence shall be permitted to attend school in the district where the student has been paying tuition, during the 1989-1990 school year, by filing a request to use the open enrollment option under this section by August 1, 1989.

“A student, whose district of residence, for the purposes of school attendance, changes during the 1989-1990 school year, shall be permitted to attend school during the 1989-1990 school year in the district in which the student attended during the 1988-1989 school year if a request to use the open enrollment option under this section is filed by August 1, 1989.

“If a child, for which a request to transfer has been filed with the district of residence, has been suspended or expelled in the district of residence, the receiving district named in the request may refuse the request to transfer until the child has been reinstated in the district of residence.”

Acts 1990 (73 G.A.) ch. 1182 revised unnumbered pars. 1, 2, 3, 4, 5, 9, 13, 14 and 15. The paragraphs prior thereto read:

“For the school year commencing July 1, 1989, and each succeeding school year, a parent or guardian residing in a school district may enroll the parent's or guardian's child in a public school in another school district in the manner provided in this section.

“By September 15 of the preceding school year the parent or guardian shall informally notify the district of residence, and not later than November 1 of the preceding school year, the parent or guardian shall send notification to the district of residence and to the department of education on forms prescribed by the department of education that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. The parent or guardian shall describe the reason that exists for enrollment in the receiving district that is not present in the district of residence. The board of the district of residence shall transmit a copy of the form to the receiving school district within five days after its receipt. During the 1990-1991 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than five percent of the district's certified enrollment for the previous year, the board of the district of residence may deny the request for the 1990-1991 school year. During the 1991-1992 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than ten percent of the district's certified enrollment for the previous year, the board of the district of residence may deny the request for the 1991-1992 school year. If, however, a failure to transmit a request will result in enrollment of students from the same nuclear family in different school districts, the request shall be transmitted to the receiving district for enrollment. The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered. The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. In all districts involved with volunteer or court-ordered desegregation, minority and nonminority student ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to volunteer or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests. A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either

uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1.

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

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

“The board of directors of the district of residence shall pay to the receiving district the lower district cost per pupil of the two districts, plus any moneys received for the pupil as a result of non-English speaking weighting under section 442.4, subsection 6, for each school year. The district of residence shall also transmit the phase III moneys allocated to the district for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer. If a request filed under this section is for a child requiring special education under chapter 281, the request to transfer to the other district shall only be granted if the receiving district maintains a special education instructional program which is appropriate to meet the child's educational needs and the enrollment of the child in the receiving district's program would not cause the size of the class in that special education instructional program in the receiving district to exceed the maximum class size in rules adopted by the state board of education for that program. For pupils requiring special education, the board of directors of the district of residence shall pay to the receiving district the actual costs incurred in providing the appropriate special education. Quarterly payments shall be made to the receiving district. If the transfer of a pupil from one district to another results in a transfer from one area education agency to another, the sending district shall forward a copy of the request to the sending district's area education agency. The receiving district shall forward a copy of the request to the receiving district's area education agency. Any moneys received by the area education agency of the sending district for the child who is the subject of the request shall be forwarded to the receiving district's area education agency. Notwithstanding section 285.1 relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement to and from a point on a regular school bus route of the receiving district. A receiving district shall not send school vehicles into the district of residence of the pupil using the open enrollment option under this section, for the purpose of transporting the pupil to and from school in the receiving district. If the child meets the economic eligibility requirements, established under the federal National School Lunch and Child Nutrition Acts, [42 U.S.C. §§ 1751-1785](#), for free or reduced price lunches, the sending district shall be responsible

for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the child to and from a point on a regular school bus route of a contiguous receiving district unless the cost of providing transportation or the pro rata cost of the transportation to a parent or guardian exceeds the average transportation cost per pupil transported for the previous school year in the district. If the cost exceeds the average transportation cost per pupil transported for the previous school year, the sending district shall only be responsible for that average per pupil amount. A sending district which provides transportation for a child to a contiguous receiving district under this paragraph may withhold from the district cost per pupil amount, that is to be paid to the receiving district, an amount which represents the average or pro rata cost per pupil for transportation, whichever is less.”

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

“If a child, for which a request to transfer has been filed with a district, has been suspended or expelled in the district, the receiving district named in the request may refuse the request to transfer until the child has been reinstated in the sending district.

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

“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.”

Acts 1990 (73 G.A.) ch. 1182, § 5 provides:

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

Acts 1990 (73 G.A.) ch. 1182, § 6 provides:

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

Acts 1990 (73 G.A.) ch. 1233, throughout the section substituted “pupil(s)” for “student(s)”, substituted “pupil” for “child”, substituted “children” for “pupils”, and substituted “is” for “shall be”; in unnum. par. 6 also substituted “does” for “shall” in the second sentence; in unnum. par. 9 also substituted “March 10, 1989” for “the effective date of this Act”; struck unnum. pars. 10 to 12; and made other nonsubstantive changes. Former unnum. pars. 10 to 12 read:

“A student who has been paying tuition and attending school on or before March 25, 1989, in a district other than the student's district of residence shall be permitted to attend school in the district where the student has been paying tuition, during the 1989-1990 school year, by filing a request to use the open enrollment option under this section by August 1, 1989.

“If a student has been paying tuition and attending an accredited nonpublic school during the 1988-1989 school year, which is located in a public school district other than the student's public school district of residence, and the nonpublic school discontinues the grade or school which the student would have attended during the 1989-1990 school year, after June 30, 1988, but before August 1, 1989, the student shall be permitted to attend a public school, located within the public school district where the nonpublic school was located, during the 1989-1990 school year if the receiving public school district agrees to accept the student and the student's parent or guardian files a request to use the open enrollment option under this section by August 1, 1989. The public school district where the nonpublic school was located shall count the student in the September 1989 enrollment count.

“A student, whose district of residence, for the purposes of school attendance, changes by August 1, 1989, shall be permitted to attend school during the 1989-1990 school year in the district in which the student attended during the 1988-1989 school year if a request to use the open enrollment option under this section is filed by August 1, 1989.”

Acts 1991 (74 G.A.) ch. 97, purported to amend the 1990 amendment by ch. 1233 by striking the following par.:

“A student, whose district of residence, for the purposes of school attendance, changes by August 1, 1989, shall be permitted to attend school during the 1989-1990 school year in the district in which the student attended during the 1988-1989 school year if a request to use the open enrollment option under this section is filed by August 1, 1989.”

Acts 1991 (74 G.A.) ch. 202, in the first sentence of subsec. 15, substituted “the pupil may participate in” for “for”, substituted “, when” for “or unless” and added “, 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, subsec. 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 prop-

erty provided by a branch of the armed services”.

Acts 1991 (74 G.A.) ch. 202, § 2, provides:

“This Act shall apply to pupils participating in open enrollment as a result of whole grade sharing agreements entered into on or after July 1, 1990.”

Acts 1992 (74 G.A.) ch. 1135, §§ 3 to 5, in subsec. 11, in the second sentence, substituted “However, a receiving district may” for “A receiving district shall not” and inserted “, if the boards of both the sending and receiving districts agree to this arrangement”; rewrote subsec. 15, which prior thereto read:

“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 not eligible to participate in interscholastic athletic contests and athletic competitions during the first year of enrollment under this section except the pupil may participate in an interscholastic sport in which the district of residence and the other school district jointly participate, when 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. However, a pupil who has paid tuition and attended school, or has attended school pursuant to a mutual agreement between the two districts, in a district other than the pupil's district of residence for at least one school year prior to March 10, 1989, is eligible to participate in interscholastic athletic contests and athletic competitions under this section, but only as a member of a team from the district that pupil had attended.”;

and added subsec. 20 relating to discretion in appeals from school boards.

Acts 1992 (74 G.A.) ch. 1163, § 64, in subsec. 8, in the third sentence, substituted “280.4, subsection 4” for “442.4, subsection 6”.

The 1993 amendment deleted subsec. 3 which read:

“During the 1990-1991 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than five percent of the district's certified enrollment as compared with the district's certified enrollment for the 1988-1989 school year, the board of the district of residence may deny the request for the 1990-1991 school year. During the 1991-1992 school year, if the board of the district of residence determines that transmission of the request will result in a loss of greater than ten percent of the district's

certified enrollment as compared to the district's certified enrollment for the 1988-1989 school year, the board of the district of residence may deny the request for the 1991-1992 school year. If, however, a failure to transmit a request will result in enrollment of pupils from the same nuclear family in different school districts, the request shall be transmitted to the receiving district for enrollment."

Acts 1994 (75 G.A.) ch. 1091, § 24 purported to strike subsec. 14, but was superseded by ch. 1175, § 10.

Acts 1994 (75 G.A.) ch. 1131, in subsec. 16, substituted "whom" for "which" following "pupil", inserted "or expelled" following "suspended" in the first sentence, and substituted "pupil" for "child" throughout the subsec.

Acts 1994 (75 G.A.) ch. 1175, in subsec. 2, in unnum. par. 1, in the first sentence, deleted "and to the department of education" preceding "on forms prescribed", in the third sentence, substituted "one of the criteria defined in subsection 18" for "good cause", in unnum. par. 2, in the second sentence, substituted "at any time prior to the start of the school year" for "during November of the preceding school year unless the board of the receiving district has acted on the request", inserted the fourth sentence relating to enrollment of pupils; and rewrote subssecs. 4, 5, 7, and 14, which prior thereto read:

"4. The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered.

"The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil.

"In all districts involved with volunteer or court-ordered desegregation, minority and nonminority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to volunteer or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

"5. A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1.

"If, however, a request to enroll a child in another district is denied by the board of the child's district of residence for failure to show good cause for not meeting the request deadline, the parent or guardian shall be permitted to appeal the decision of the board either directly to the director of the department of education or to the state board under chapter 290, but not to both. If the matter is to be heard by the director, or the director's designee,

the matter shall be heard de novo in accordance with the procedures contained in chapter 17A. If a designee of the director hears the matter, the findings of the director's designee shall be reviewed by and are subject to the approval of the director.”

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

“14. The board of directors of a school district subject to volunteer or court-ordered desegregation may vote not to participate in open enrollment under this section during the school year commencing July 1, 1990, and ending June 30, 1991. If a district chooses not to participate in open enrollment under this paragraph, the district shall develop a policy for implementation of open enrollment in the district for that following school year. 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.”;

and made other non-substantive changes.

The Code Editor for Code 1995 supplies the following note:

“1994 Acts, chapter 1091, section 24, strikes subsection 14, whereas 1994 Acts, chapter 1175, section 10, contains revisions to that subsection. The title of 1994 Acts, chapter 1091, indicates that the bill deals primarily with updates and technical corrections, including the deletion of temporary language. The amendment by 1994 Acts, chapter 1175, section 10, strikes the temporary language but retains the remainder as a continuing provision, and this is the amendment which was codified.”

2009 Electronic Update

1996 Legislation

The 1996 amendment, in subsec. 2, in unnum. par. 1, in the first and second sentences, substituted “January 1” for “October 30”, and deleted the former second sentence which read: “The parent or guardian shall describe the reason for enrollment in the receiving district.”, and in unnum. par. 2, inserted the first and second sentences relating to the authority of the superintendent to approve or deny open enrollment applications, in the third sen-

tence, inserted “, or the superintendent with the board's authority to only approve applications,” and substituted “February 1” for “November 30”, and in the fifth sentence, inserted “, or the superintendent with the board's authority to approve applications only,” and substituted “March 1” for “December 31”; renumbered former subsecs. 4 to 11 as subsecs. 3 to 10; in subsec. 6, in the second sentence, substituted “January 1” for “October 30”; in subsec. 7, in the third sentence, substituted “state cost per pupil for the previous school year” for “lower district cost per pupil of the two districts”, and substituted “the previous school year multiplied by the state cost for the previous year” for “each school year”, and in the fourth sentence, inserted “for the previous year”; struck subsec. 12; renumbered former subsecs. 13 to 20 as subsecs. 11 to 18; and in subsec. 16, in the first sentence, inserted “removal of accreditation by the state board, surrender of accreditation, or permanent closure of a non-public school,”. Prior to deletion, subsec. 12 had read:

“A pupil, whose parent or guardian has submitted a request to enroll the pupil in a public school in another district, shall, if the request has resulted in the enrollment of the pupil in the other district, attend school in the other district which is the subject of the request. This requirement does not apply, however, if the pupil's family moves out of the district of residence.”

Acts 1996 (76 G.A.) ch. 1157, § 4 provides:

“Instructional support for reorganized school districts. Notwithstanding section 257.18, subsection 3, and section 257.27, a school district participating in an instructional support program on or after July 1, 1995, which reorganizes effective July 1, 1996, may continue to participate in the instructional support program for the budget year beginning July 1, 1996. The percent of income surtax imposed for the budget year beginning July 1, 1996, by the board of directors of the school district that reorganizes effective July 1, 1996, shall not exceed seventeen percent.”

1997 Legislation

The 1997 amendment, in subsec. 7, inserted “per pupil” in the third sentence; and in unnum. par. 2 of subsec. 9, substituted “amount calculated in subsection 7,” for “lower of the two district costs per pupil or other costs to the receiving district” in the second sentence.

2002 Legislation

The 2002 amendment, by ch. 1124, in subsec. 16, in the first sentence inserted “revocation of a charter school contract as provided in section 256F.8,” (see 2003 amendment note post which makes a citation correction to this amendment).

The 2002 amendment, by ch. 1129, in subsec. 7 added the fifth sentence relating to paying tuition reimbursement to an eligible post-secondary institution.

The 2002 amendment by ch. 1140, rewrote subsec. 2; in subsec. 3, in the second sentence, in unnum. par. 1, inserted “unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district” and in the third sentence, deleted “, however,” preceding “a transfer request”; and in unnum. par. 2, in the third sentence, substituted “to the district court in the county in which the primary business office of the district is located” for “under section 290.1”; rewrote subsecs. 4 and 5; in subsec. 6, in the fifth sentence, inserted “not” and deleted “under section 290.1” following “subject to appeal”; in subsec. 14, rewrote the fifth sentence which prior thereto read “The parent or guardian of the pupil shall be permitted to appeal the decision of the receiving district to the director of the department of education” and deleted the sixth sentence which provided, “If the director rules in favor of permitting the transfer, the pupil shall be permitted to transfer, but the transfer, but the transfer shall be conditioned upon the expiration of the expulsion period without the pupil incurring a new violation.”; and rewrote subsec. 16 and deleted 18. Prior to amendment, subsecs. 2, 4, 5, 16 and 18 had read:

“2. By January 1 of the preceding school year, the parent or guardian shall send notification to the district of residence, 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 16 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 directors of a school district may adopt a policy granting the superintendent of the district authority to approve open enrollment applications that are timely filed. However, the board of directors shall not grant the superintendent authority to deny open enrollment applications, except as provided in subsection 3. The board of the district of residence, or the superintendent with the board's authority to only approve applications, shall take action on the request no later than February 1 of the preceding school year and shall transmit any approved request within five days after board action on the request. The parent or guardian may withdraw the request at any time prior to the start of the school year. The board of the receiving district, or the superintendent with the board's authority to approve applications only, shall take action to approve or disapprove the request no later than March 1 of the preceding school year. 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 school district of residence within five days after board action.”

“4. If, however, a request to enroll a child in another district is denied by the board of the child's district of residence for failure to show good cause for not meeting the request deadline, the parent or guardian shall be permitted to appeal the decision of the board either directly to the director of the department of education or to the state board under chapter 290, but not to both. Notwithstanding chapter 17A, in an appeal arising from the denial of a parent's or guardian's request for open enrollment, where the denial was for failure to show good cause for not meeting the request deadline, the director or designee assigned to hear the appeal on behalf of the director or state board may, with the agreement of the parties to the appeal, issue an oral decision at the conclusion of the

hearing on the appeal. The oral decision shall comport with previously established decisions of the director and state board. However, any party to the appeal may request a written decision and the director or state board shall issue a written decision. The department shall recommend, and the state board shall adopt, rules to implement this subsection.

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

“16. For purposes of this section, ‘good cause’ means a change in a child’s residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child’s parents’ marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with the definition of good cause; a change in the status of a child’s resident district, such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan, or a similar set of circumstances consistent with the definition of good cause. If the good cause relates to a change in status of a child’s school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances.”

“18. Notwithstanding the general limitations contained in this section, in appeals to the state board from decisions of school boards relating to student transfers under open enrollment, the state board shall exercise broad discretion to achieve just and equitable results which are in the best interest of the affected child or children.”

2003 Legislation

The 2003 amendment, by ch. 79, corrected a statutory reference in Acts 2002 (79 G.A.) ch. 1124, § 13 which purportedly amended subsec. 16, but was intended to amend subsec. 4, par. b.

Acts 2002 (79 G.A.) ch. 1124, § 16, as amended by Acts 2003 (80 G.A.) ch. 79, § 7, eff. April 28, 2003, provides:

“Sec. 16. Applicability date. This Act applies on the date by which the department of education initiates implementation in accordance with the provisions of section 256F.3, subsection 1. The department of education shall notify the Code editor upon initiating implementation in accordance with this section and section 256F.3, sub-

section 1.”

The 2003 amendment, by ch. 180, in subsec. 3, in the second sentence of unnum. par. 1, added “, 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”, and in unnum. par. 2, added the fourth sentence, relating to the adoption of rules establishing guidelines, the fifth sentence, relating to the inclusion of certain criteria and standards in those guidelines, the sixth sentence, relating to the providing of technical assistance, and the seventh sentence, relating to the implementation of a voluntary desegregation plan; and in subsec. 7, deleted the fourth sentence which prior thereto read: “The district of residence shall also transmit the phase III moneys allocated to the district for the previous year for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer.”

Acts 2003 (80 G.A.) ch. 180, § 72 provides:

“Sec. 72. Effective and retroactive applicability provision. Section 35 of this Act, relating to a request for open enrollment submitted to a district prior to the district's adoption of a desegregation plan, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2002, for open enrollment transfer requests received by a school district on or after July 1, 2002.”

2005 Legislation

The 2005 amendment by Acts 2005 (81 G.A.) ch. 79, H.F. 423, § 2, in subsec. 13, in the first sentence, substituted “grades nine through twelve” for “grades ten through twelve”, inserted “varsity” preceding “interscholastic athletic contests”, substituted “a varsity” for “an” following “pupil may participate immediately” and inserted “the pupil is entering grade nine for the first time and did not participate in an interscholastic athletic competition for another school or school district during the summer immediately following eighth grade, if”; in the second sentence, deleted “prior to March 10, 1989” following “at least one school year”; in the third sentence, substituted “does” for “do”; and added the fourth sentence, relating to the definition of “varsity”.

The 2005 amendment by Acts 2005 (81 G.A.) ch. 179, H.F. 882, § 93, rewrote subsec. 2; the amendment by ch. 179, H.F. 882, § 94, rewrote subsec. 4, par. a; and ch. 179, H.F. 882, § 95, substituted “March” for “January” in the first sentence of subsec. 5 and the second sentence of subsec. 6. Prior to amendment, subsec. 2 and subsec. 4, par. a had read:

“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.”

“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.”

The Governor disapproved a portion of Acts 2005 (81 G.A.) ch. 179, H.F. 882, § 94, amending subsec. 4, par. b. The Governor's signing message addressed to the Secretary of State and dated June 16, 2005, provides in part:

“I am unable to approve the item designated as Section 94, subsection b, in its entirety. The expansion of the good cause definition for late open enrollment applications was intended to accompany a change to move the authority for determining good cause to the resident district. This bill does not make the change back to the resident district thereby creating a situation that open enrollment decisions may not be based on the best interest of the student. My administration is committed to working with legislators and stakeholders during the next legislative session to ensure changes to this policy will positively impact all constituents.”

Per the Code Editor for Code Supp. 2005, the amendment to subsec. 4, par. b, by Acts 2002 (79 G.A.) ch. 1124, § 13, took effect July 1, 2003.

2006 Legislation

Acts 2006 (81 G.A.) ch. 1152, S.F. 2272, § 41, in subsec. 4, par. a, substituted “date specified in section 257.6, subsection 1” for “third Friday in September of that calendar year”; Acts 2006 (81 G.A.) ch. 1152, S.F. 2272, § 42, rewrote subsec. 4, par. c; and Act 2006 (81 G.A.) ch. 1152, S.F. 2272, § 43, in the first sentence of subsec. 9, unnum. par. 2, made nonsubstantive changes and inserted “is enrolled in any grade from kindergarten through grade twelve at the time of the request and” and “kindergarten through grade twelve”. Prior to amendment, sub-

sec. 4, par. c, had read:

“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.”

2008 Legislation

The Iowa Code Editor for Code 2009 internally renumbered subsec. 3, and, in subsec. 7, substituted “261E.6” for “261E.5” and “261E.7” for “261E.6”.

1996 Main Volume

Former Law

Former § 282.18, Code 1981, which related to school attendance by children living in a charitable institution and was repealed by Acts 1981 (69 G.A.) ch. 90, § 2, was derived from:

Codes 1979, 1975, § 282.18.

Acts 1975 (66 G.A.) ch. 153.

Codes 1975, 1973, § 282.18.

Acts 1972 (64 G.A.) ch. 1016, § 19.

Code 1971, § 282.18.

Acts 1967 (62 G.A.) ch. 209, § 433.

Code 1966, § 282.18.

Acts 1963 (60 G.A.) ch. 172, § 1.

Codes 1962, 1958, § 282.18.

Acts 1955 (56 G.A.) ch. 142, § 1.

Codes 1954, 1950, § 282.18.

Acts 1949 (53 G.A.) ch. 116, § 15.

Code 1946, § 282.18.

Code 1939, § 4275.1.

Acts 1939 (48 G.A.) ch. 104, § 1.

CROSS REFERENCES

Driver's licenses, driver education available to students participating in open enrollment, see § 321.178.

Elementary and secondary education, research and development school funding, see § 256G.3.

Senior year plus program, postsecondary enrollment options program payments, see § 261E.6.

ADMINISTRATIVE CODE REFERENCES

Education department,

Appeal procedures, [281-6.1\(290\) et seq. IAC](#).

Eligibility requirements, [IA ADC 281-36.15\(280\)](#).



Open enrollment, [281-17.1\(282\) et seq. IAC](#).




NOTES OF DECISIONS

Parties [2](#)

Validity [1](#)

1. Validity

Supreme court's standard of review of open school enrollment financing scheme would be rational basis test for both substantive due process and equal protection challenge, where neither infringement upon fundamental right nor creation of suspect class, either of which would have triggered strict scrutiny, were alleged. [Exira Community School Dist. v. State, 1994, 512 N.W.2d 787](#), rehearing denied. [Constitutional Law](#)  [3614](#); [Constitutional Law](#)  [4195](#)

Finding that section of statutory financing scheme for open school enrollment which requires local real estate tax revenues for open enrollment students to follow those students to receiving districts has rational basis for substantive due process purposes also defeats equal protection challenge. [Exira Community School Dist. v. State, 1994, 512 N.W.2d 787](#), rehearing denied. [Constitutional Law](#)  [3614](#); [Constitutional Law](#)  [4195](#); [Schools](#)  [10](#)

Section of open school enrollment statute which requires local real estate tax revenues for open enrollments students to follow those students to receiving districts did not violate due process or equal protection clause; access to educational opportunities through open enrollment was legitimate state purpose, and statute rationally furthered that purpose by supplying financing mechanism that maintained per pupil equity in amount of funds available to educate all students in state. [Exira Community School Dist. v. State, 1994, 512 N.W.2d 787](#), rehear-

ing denied. [Constitutional Law](#) ↪ 3614; [Constitutional Law](#) ↪ 4195; [Schools](#) ↪ 10

Students of school were not treated differently from those who desired to open enroll elsewhere, by school funding statute, as statute assured every student roughly same amount of funds for his or her education, wherever he or she was educated. [Exira Community School Dist. v. State, 1994, 512 N.W.2d 787](#), rehearing denied. [Constitutional Law](#) ↪ 3614; [Schools](#) ↪ 10

Restriction on athletic participation placed upon students in grades 10-12 who transfer to a nonresident school district under open enrollment is not violative of the equal protection or due process clause of the Fourteenth Amendment. Op.Atty.Gen. (Spenner), June 11, 1990.

2. Parties

School district had no standing to mount constitutional attack against state open enrollment statute, as individual taxpayers and their children were real parties in interest and were fully capable of raising due process and equal protection challenges asserted. [Exira Community School Dist. v. State, 1994, 512 N.W.2d 787](#), rehearing denied. [Constitutional Law](#) ↪ 892; [Constitutional Law](#) ↪ 922

I. C. A. § 282.18, IA ST § 282.18
Current through Acts from the 2009 Reg.Sess.

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