



#### **256.46 INELIGIBLE TRANSFER STUDENTS:**

The state board shall adopt rules that permit a child who does not meet the residence requirements for participation in extracurricular interscholastic contests or competitions sponsored or administered by an organization as defined in Section 280.13 to participate in the contests or competitions immediately if the child is duly enrolled in a school, is otherwise eligible to participate, and meets one of the following circumstances or similar circumstance: the child has been adopted; the child is placed under foster or shelter care; the child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship, or pursuant to other court-ordered decree or order of custody; the child is a foreign exchange student, unless undue influence was exerted to place the child for primarily athletic purposes; the child has been placed in a juvenile correctional facility; the child is a ward of the court or the state; the child is a participant in a substance abuse or mental health program; or the child is enrolled in an accredited nonpublic high school because the child's district of residence has entered into a whole grade sharing agreement for the pupil's grade with another district. The rules shall permit a child who is otherwise eligible to participate, but who does not meet one of the foregoing or similar circumstances relating to residence requirements, to participate at any level of competition other than the varsity level. For purposes of this section and section 282.18, "varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.

#### **36.15(4) OPEN ENROLLMENT TRANSFER RULE:**

A student in grades 9 through 12 whose transfer of schools had occurred due to a request for open enrollment by the student's parent or guardian is ineligible to compete in interscholastic athletics, during the first 90 school days of transfer except that a student may participate immediately if the student is entering grade 9 for the first time and did not participate in an interscholastic athletic competition for another school during the summer immediately following eighth grade. The period of ineligibility applies only to varsity level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) The student will become eligible at 4:00 PM on the 90<sup>th</sup> day. This period of ineligibility does not apply if the student:

- a. Participates in an athletic activity in the receiving district that is not available in the district of residence; or
- b. Participates in an athletic activity for which the resident and receiving districts have a cooperative student participation agreement pursuant to Rule 36.20(280); or
- c. Has paid tuition for one or more years to the receiving school district prior to making application for and being granted open enrollment; or
- d. Has attended in the receiving district for one or more years prior to making application for and being granted open enrollment under a sharing or mutual agreement between the resident and receiving districts; or
- e. Has been participating in open enrollment and whose parents/guardians move out of their district of residence but exercise either the option of remaining in the original open enrollment district or enrolling in the new district of residence. If the pupil has established athletic eligibility under open enrollment, it is continued despite the parent's or guardian's change in residence; or
- f. Has not been participating in open enrollment, but utilizes open enrollment to remain in the original district of residence following a change of residence of the student's parent(s). If the pupil has established athletic eligibility, it is continued despite the parent's or guardian's change in residence; or
- g. Obtains open enrollment due to the dissolution and merger of the former district of residence under Iowa Code Subsection 256.11(12); or
- 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; or
- 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.

**NOTE:** *Effective April 7, 2016, the Iowa Open Enrollment Statute was amended. (Iowa Code §282.18) Under the amendment, a student who transfers as a result of participating in open enrollment is not subject to the 90-consecutive school day ineligibility period if the district of residence determines that the pupil was previously subject to a founded incident of harassment or bullying as defined in section 280.28 while attending school in the district of residence. The administrative rule implementing the amendment is in process and this section will be updated upon adoption of the formal rule. The anticipated date of rule adoption is November 16, 2016.*