# UEN Comments Regarding Proposed Rules

# HF 2589 Div. V Elimination of Open Enrollment Deadline September 13, 2022

Thank you for the opportunity to provide comment regarding proposed rules to implement the elimination of the March 1 open enrollment deadline for grades 1-12 and the September 1 open enrollment deadline for kindergarten. As this legislation was amended onto the Standings Appropriations bill, HF 2589, in the final hours of the 2022 Session, the proposal did not receive the benefit of subcommittee and committee discussion and refinement. There are several comments pointing out items of confusion that a better legislative process would have corrected along the way. We would be remiss if we did not take this opportunity to inform the State Board of Education, the DE, the Governor’s Office and Legislators that last-minute policy overhauls can create unintended consequences and difficulties for all concerned, including students, parents, school staff and taxpayers.

Item 2 **17.3(2) School district responsibilities:** the proposed rule states: a. The board of the resident district shall take no action on an open enrollment request except for a request made under rule 281-17.5(282) (*17.5 is rescinded in item 5 below, so should not be cross-referenced here*), 17.14 (282) *is the court-ordered desegregation plan, so that one is correct*. Other sections that should be included: 17.9 method of transportation is under the discretion of the resident district board. 17.11(1) special education allows the resident district and receiving district to mutually agree to place a special education student in the receiving district pending AEA determination of the appropriateness of services. 17.15(2) athletic eligibility allows the resident district to approve participation in resident district extra-curricular activities beyond two per year for a student open enrolled in an online program. 36.15(4)(m) 90-day waiting period for varsity participation allows the resident and receiving school boards to mutually waive the ineligibility period. All of these decisions require an action of the resident school board.

Item 7 **Amends paragraph 17.8(2) “k”** at the top of page 7, the language includes part of the statute “initial placement of a prekindergarten student in a special education program requiring specially designed instruction.” It is inconceivable that a PK student in a special education program would be otherwise eligible to participate in varsity (high school) interscholastic competitions. This should not have been in the statute in the first place and will just create confusion and code clutter by being stated in the rule.

Item 8 **Petition for attendance in an alternative** (*second or subsequent*) **receiving district:** With prorated billing and elimination of the application deadlines, for a smooth process, the parents’ request to open enroll to a subsequent receiving district should go to the resident district as well as to the current receiving district. The rule continues to state in the last sentence that “Petitions for change shall be effectuated at the start of the next school year.”

The UEN supports the continuation of this existing practice. However, there may be a loophole inadvertently created if the student first returns to their district of residence, as the parent can make that decision at any time, rather than petitioning for change to another receiving district. See 17.8(4) which states “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.” The rules should state that the second or subsequent open enrollment to another receiving district is also effectuated at the start of the next school year.

Transitions are difficult for students (both the students transitioning to a new school and the students already in the classroom), as well as for staff and parents who must determine appropriate instruction, placement, coursework, procedures and communication of achievement and services between districts. Proration and billing are complicated. Responsible school business officials need to have accurate and timely information about student placement and services in order for billing to be done correctly.

Our recommendation is to add a sentence at the end of Item 8 after “receiving district.” Once an initial open enrollment is rescinded and the student is returned to the resident district, subsequent open enrollment requests to another receiving district shall follow the timelines in rule 17.8(4).

Item 9 **17.8 (6) Change in residence when participating in open enrollment.** The beginning of the third paragraph reads, “Timely requests under this rule shall not be denied.” The word “Timely” should be deleted since there is no deadline.

Item 10 **17.8 (7) Change in residence when not participating in open enrollment.** A sentence in the existing rule should also be amended, given the elimination of the September 1 deadline for kindergarten open enrollment requests. The second sentence should either be stricken if a kindergarten student may truly open enroll at any time or be amended to clarify as follows: This option is not available to the parent/guardian of a student who is entering kindergarten for the first time unless the student has already been enrolled and attended classes in the prior district of residence.

Item 12 **17.10(1) Full-time pupils:** we suggest striking the last phrase of the first sentence, “whichever the district received, if both the district of residence and the receiving district received either of the supplements.” As all districts now receive Teacher Leadership Supplement funding, this phrase is outdated and just contributes to code clutter.

**Item 16 17.10(7) Late changes of open enrollment:** the sentence remaining in the rule after changes states, “If any change in enrollment is made on or after the date specified in Iowa Code section 257.6, subsection 1, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.”

The Iowa Code reference 257.6, subsection 1, refers to the October 1 certified enrollment headcount, which is used as the enrollment to determine the budget for the subsequent year. It is unclear whether the late open enrollment refers to any open enrollment which happens after the prior October 1, which was used to determine the budget, or after October 1 of the school year in which the student is currently seeking open enrollment. Additionally, it is unclear if the “first full year of the open enrollment” means from the date the open enrollment was initiated until a year later, or just until the end of the school year during which the open enrollment began. Both of these terms require further definition to avoid confusion and billing disputes.

**We appreciate the opportunity to provide input. Thank you for undertaking the work of the double-barreled approach of both emergency rule-making required by the statute, which had to be hastily accomplished, and this thorough process to vet the rules changes with public input. The DE staff is to be commended in their quick turnaround of the emergency rules as schools had received many applications for open enrollment for a school year that was beginning just 60 days after the Governor signed the legislation into law.**

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