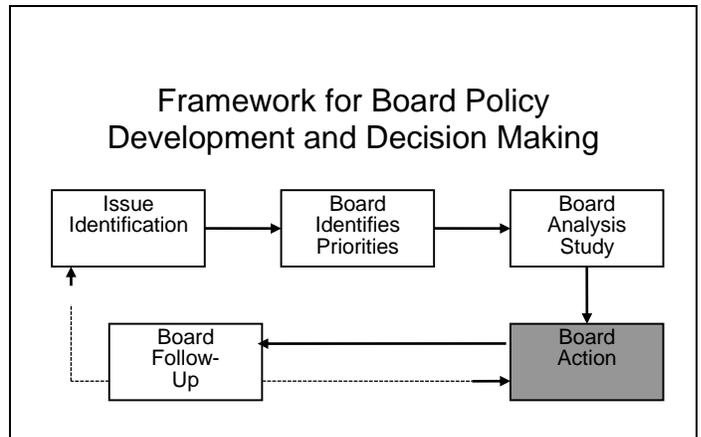


# Iowa State Board of Education

## Executive Summary

June 9-10, 2016



- Agenda Item:** Rules: 281 IAC Chapter 36 – Extracurricular Interscholastic Competition (Notice)
- Iowa Goal:** All PK-12 students will achieve at a high level.
- State Board Role/Authority:** Iowa Code section 256.7(5) gives the State Board of Education the statutory authority to adopt rules under Chapter 17A.
- Presenters:** Phil Wise, Administrative Rules Co-Coordinator
- Attachments:** 1
- Recommendation:** It is recommended that the State Board give public notice of its intent to amend Chapter 36.
- Background:** The proposed amendments to 281 Iowa Administrative Code (IAC) Chapter 36 would achieve two things:

First, ITEM 1 of the rule implements House File 2264 which was passed by the 2016 General Assembly and became effective on April 7, 2016. HF 2264 modified the reasons a pupil participating in open enrollment during grades nine through twelve is not subject to the restriction on eligibility to participate in varsity interscholastic athletic contests and athletic competitions during the pupil's first ninety school days of enrolment in the receiving district. The additional reason delineated is if the pupil exercising open enrollment had previously been the subject of a founded case of harassment or bullying in the district of residence.

ITEM 1 also harmonizes Chapter 36 and Chapter 17 with respect to the eligibility of pupils in grades nine through twelve who exercise open enrollment due to a founded incident of harassment or bullying while attending school in the district of residence.

Second, ITEM 2 provides that the establishment of a pupil's eligibility to immediately participate in varsity interscholastic athletic contests and competitions due to a founded incident of harassment or bullying while attending school in the district of residence may not be appealed to the executive boards of the Iowa High School Athletic Association or the Iowa Girls' High School Athletic Union.

# EDUCATION DEPARTMENT [281]

## Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

Item 1 of revised Chapter 36 incorporates changes to the Open Enrollment Program included in House File 2264, passed by the 2016 General Assembly. House File 2264 became effective on April 7, 2016. Changes as a result of House File 2264 include modifying the delineation of reasons that a student participating in open enrollment during grades nine through twelve is not subject to the restriction on eligibility to participate in varsity interscholastic athletic contests and athletic competitions during the pupil's first ninety school days of enrollment in the receiving district. The additional reason is if the student exercising open enrollment had previously been the subject of a founded case of harassment or bullying in the district of residence.

Item 2 of revised Chapter 36 provides that the eligibility of a student open enrolling due to a founded case of harassment or bullying as defined in Iowa Code section 280.28 while attending school in the district of residence is not subject to review by the executive board of the governing organization.

An agencywide waiver provision is provided in 281–Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before **July 26, 2016, at 4:30 p.m.** Comments on the proposed amendments should be directed to Phil Wise, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail [phil.wise@iowa.gov](mailto:phil.wise@iowa.gov); or fax (515)242-5988.

A public hearing will be held on **July 26, 2016, from 1:00 p.m. to 2:00 p.m.** in the State Board Room, Second Floor, Grimes State Office Building, East 14<sup>th</sup> Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who intends to attend the public hearing and has special requirements, such as those

related to hearing or mobility impairments, should contact and advise the Department of Education of specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 282.18.

The following amendments are proposed.

ITEM 1.

**Amend 281 – IAC 36.15(4) as follows:**

**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.) 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 281—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.

*j.* Open enrolls from a district of residence that has determined that the pupil was previously subject to a founded incident of harassment or bullying as defined in Iowa Code section 280.28 while attending school in the district of residence.

ITEM 2.

**Amend 281 – IAC 36.16 as follows:**

**36.16 Executive board review.** A student, parent of a minor student, or school contesting the ruling of a student's eligibility based on these rules, other than subrule 36.15(1) or paragraph 36.15(2) "c," "d," "f," or "k," or paragraph 36.15(4) "j" or a school contesting a penalty imposed under paragraph 36.15(6) "b," shall be required to state the basis of the objections in writing, addressed to the executive officer of the board of the governing organization. Upon request of a student, parent of a minor student, or a school, the executive officer shall schedule a hearing before the executive board on or before the next regularly scheduled meeting of the executive board but not later than 20 calendar days following the receipt of the objections unless a later time is mutually agreeable. The executive board shall give at least 5 business days' written notice of the hearing. The executive board shall consider the evidence presented and issue findings and conclusions in a written decision within 5 business days of the hearing and shall mail a copy to appellant.

These rules are intended to implement Iowa Code section 282.18.