

IOWA - SOUTH DAKOTA TUITION RECIPROCITY AGREEMENT

This Agreement is entered into pursuant to Iowa Code Section 282.8 and South Dakota Codified Law Chapters 13-28 and 13-28A, permitting attendance of certain resident students of one state to attend school in the other under the terms and conditions set forth below.

Parties. The parties hereto are the Iowa Department of Education [herein "Iowa DOE"] and the South Dakota Department of Education [herein "South Dakota DOE"].

Purposes. The purposes of this Agreement are: (1) to provide individual South Dakota students residing in the former Greater Scott and Greater Hoyt school districts the opportunity to attend an Iowa school district with the consent of both school districts and (2) to provide individual Iowa students the opportunity to attend a South Dakota school district with the consent of both school districts. The intent is to establish rates that are equal and reciprocal for non-special education students of the same grade level going between the two districts that have the agreement. It is also the intent that any reduction in tuition rates pursuant to this agreement would not result in a substantial variance from what the tuition rates would be for students not eligible under this Agreement. This Agreement is not open enrollment as defined in Iowa Code or South Dakota Statutes, and sharing under this Agreement is not eligible for Iowa supplementary weighting.

Duration of Agreement. This Agreement shall commence on the 1st day of July, 2020, effective initially for the 2020-21 school year, and, subject to renewal, terminate on the 30th day of June, 2026. This Agreement may be renewed by the parties for periods of time not to exceed eight (8) years each. All such renewals shall be in writing.

Termination. This Agreement shall terminate if the enabling statutory authority in either state is rescinded. Otherwise, this Agreement shall terminate upon mutual agreement of the parties, providing that affected school districts in both states receive no less than 180 days notice of the termination, or upon unilateral notice of termination from one party to the other received no less than one year prior to the termination. In the event of unilateral termination of this Agreement, both state departments of education shall notify all affected school districts no less than 180 days prior to the termination.

Disclaimer. This tuition Agreement does not apply to enrollment of students pursuant to parental choice where the affected school districts do not have an agreement under which the student qualifies, or the student has been placed in a facility in the adjoining state by the Department of Human Services, the Department of Social Services, or the court system, or, for an Iowa resident, where the distance to the appropriate attendance center in the adjoining state is not closer than any appropriate attendance center in the student's district of residence or any appropriate attendance center in the student's resident state of Iowa. If this tuition Agreement does not apply, the tuition rate would be the usual tuition rate that would be charged to an out-of-state student, without regard to this Agreement, in the receiving state.

Terms. For purposes of this Agreement, the term "student" is defined as a full-time kindergarten through twelfth grade student attending an accredited school in either state. Part-time students crossing borders are subject to tuition payments from the sending school district.

Part I.
Attendance of Individual Students from South Dakota to Iowa
Pursuant to Parental Choice

I - Procedure. A resident student of the former Greater Scott or Greater Hoyt districts of South Dakota may attend a contiguous Iowa school district pursuant to SDCL 13-28-19.1 and this Part if there is an agreement between the boards of the two affected school districts consistent with this Agreement.

The agreement reached between the local school boards is not required to be filed with the Iowa or South Dakota Secretary of State, but is a public document and must be made available to any person requesting a copy.

Under this method, a South Dakota student may attend an Iowa school district if the parent or guardian of the student files for interstate enrollment to the Iowa school district under the following application procedure:

- a. The parent or guardian of a student who is a resident of South Dakota and is eligible to attend a school in an Iowa school district may file an application in order for the student to attend school in the receiving district. The application shall be on a form provided by the affected districts.
- b. The student must be at least 5 years of age by September 1 and under 21 years of age as of July 1 for enrollment the following school year and will not have reached age 21 by September 15 of the school year.

The student must not have graduated, completed the graduation requirements and classmates have graduated, or successfully completed a high school equivalency test.

- c. Once enrolled in a receiving district, the student may remain enrolled in the receiving district and is not required to submit annual or periodic applications.
- d. The school board of the student's district of residence shall transmit the application to the receiving district within 7 days of receipt of the application.
- e. Within 10 days of approval or denial of the application, the receiving district shall notify the resident district and the parent or guardian of the student.
- f. Notice of intent to enroll in the receiving district obligates the student to attend the receiving district during the following school year unless the school boards of the resident and receiving districts agree in writing to allow the student to transfer back to the resident district or the student's parent or guardian relocates to another district.
- g. All notices required to be given by one school district to the other under this Agreement, unless specifically provided otherwise, must be in writing and sent to the school board president at the school district administrative offices.
- h. A receiving district shall accept credits toward graduation awarded by the resident district provided the credits meet state and local requirements for

graduations from the receiving district. The receiving school district must award a diploma to a receiving student attending the receiving school so long as the student meets all state and local requirements for receipt of a diploma.

i. The school board of the receiving district may deny an application only if the application will result in overcrowding of the class, grade level, or school building attended by the student involved.

I- Finances. South Dakota DOE shall pay, on behalf of the Elk Point Jefferson and Alcester Hudson districts of residence, to Iowa DOE an amount equal to the tuition rate of the receiving Iowa school district in the previous school year. This rate will include any standardized testing or assessment costs.

For purposes of this part, "tuition rate" for an Iowa school district means the maximum tuition rate pursuant to according to Iowa Code, Section 282.24, for the previous school year. Tuition to an Iowa school district is billed by February 15 and July 15 each year.

The LEA-level agreement shall not authorize any Iowa school district to include any resident student of South Dakota in the Iowa school district's certified enrollment for receipt of public funding from the state of Iowa or authorize any provision to waive tuition.

I- Transportation. Unless the affected school districts agree to the contrary, transportation of a resident student of South Dakota attending an Iowa school district under this Part is the sole responsibility of the student's parent or guardian. If the affected school districts create a transportation agreement, the amount shall not be less than the lower cost per mile for yellow school buses for the previous year of the two affected school districts.

I- Students with Disabilities.

1. The provision of special education and related services under this Agreement shall be pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC§ 1400 et seq., its regulations, 34 C.F. R. Part 300, statutes and rules of the state of Iowa, the policies and procedures of the Iowa Department of Education, and the policies and procedures of the attending Area Education Agency (AEA) and Local Education Agency (LEA) ("Iowa standards"). If a South Dakota resident student has an Individualized Education Program (IEP), the attending AEA and LEA (in consultation with the parents) must provide the child with a Free Appropriate Public Education (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency - (1) conducts an evaluation according to §§ 300.320 through 300.324 and Iowa standards if determined to be necessary, under Iowa standards, by the attending AEA and LEA, and (2) develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324 and Iowa standards. The procedural safeguards (including but not limited to mediation, state complaints, and due process complaints) of Iowa shall apply. The South Dakota resident district shall be responsible for paying the costs, as defined in paragraph (2) of this section, of special education and related services for each resident child with a disability who is served by the attending AEA and LEA.

2. For purposes of this Agreement a South Dakota student, accepted to attend an Iowa district, as specified in paragraphs 3-6, The South Dakota disability level for which the

student is assigned must be agreed upon by representatives of the resident and receiving district. If the request to transfer is granted and the disability level is agreed upon, the receiving district will provide the services for the student to receive a free appropriate public education at the agreed rate of the disability level, in addition to the tuition rate set out in this Agreement.

3. A request to transfer a student in need of special education or special education and related services may be granted only if the receiving district:
 - a) Upon receipt of an interstate enrollment application, obtains copies of all relevant student education records on the student applying to transfer from the resident district;
 - b) Completes a review of those relevant student education records; and
 - c) Directly communicates with the student's parent or guardian and representatives of the resident district regarding the student's special education or special education and related services' needs.
 4. If the receiving district confirms, based on the records review and communications with the student's parent or guardian and representatives of the receiving district, that it can provide an appropriate instructional program and facilities, including transportation, if necessary, to meet the needs of the student, it may proceed to approve the application. If the receiving district determines that it is not able to make that confirmation, the receiving district shall initiate an individual education program team meeting consisting of representatives from both the resident and receiving districts and the student's parents or guardians to determine whether the receiving district can provide appropriate instructional program, facilities and transportation, if necessary. Parents or guardians have the right to use IDEA's procedural safeguards to challenge this decision
 5. A request to transfer a student in need of special education or special education and related services may be denied only if the application will result in overcrowding of the class, grade level or school building in which the student is to enroll, or if an individual education program team consisting of representatives from the resident and receiving districts and the student's parents or guardian determine that the receiving district cannot provide an appropriate instructional program and facilities, including transportation, to meet the student's needs.
 6. For each student in need of special education or special education related services, the resident school district will be invited to take part in an Individual Education Plan IEP meeting. If it is determined that an out-of-district (that is, out-of-receiving-district) placement is needed for the student, the resident school district will be solely responsible for the education, related services and all expenses for that student.
 7. The IEP team consisting of representatives from the resident and receiving districts and the student's parents or guardian shall also determine whether the student in need of special education requires transportation as a related service. If so, the resident district shall provide or ensure the provision of transportation within the boundaries of the resident district, and the receiving district shall provide or ensure provision of transportation within the boundaries of the receiving district.
- 1 - Secondary Students' Eligibility to Participate in Interscholastic Athletics. 1 - The eligibility of a resident student of South Dakota attending an Iowa school district in grades 9 and above to compete in varsity-level interscholastic athletics on behalf of the Iowa school district is to be determined according to the open enrollment transfer rule in 281-Iowa Administrative Code rule 36.15(4).*

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*Part II.**Attendance of Individual Students from Iowa to South Dakota Pursuant to Parental Choice*

II - Procedure. A resident student of Iowa may attend a contiguous South Dakota school district pursuant to this Part if the student resides closer to the appropriate South Dakota attendance center than to any appropriate attendance center in the student's district of residence and if there is an agreement between the boards of the two affected school districts consistent with this Agreement.

The agreement reached between the local school boards is not required to be filed with the Iowa or South Dakota Secretary of State, but is a public document and must be made available to any person requesting a copy.

II - Finances. The Iowa district of residence shall pay to the South Dakota district an amount of tuition, to be agreed upon by South Dakota DOE and Iowa DOE, which must equal the lower tuition rate of the affected school districts in the previous school year. For purposes of this part, "tuition rate" for an Iowa school district means the maximum tuition rate pursuant to according to Iowa Code, Section 282.24, for the previous school year, and "tuition rate" for a South Dakota school district means the local need per district calculated under SDCL 13-13-73 divided by the district's fall enrollment. It is further agreed that the tuition rate includes the costs associated with standardized testing and assessments.

II - Transportation. Unless the affected school districts agree to the contrary, transportation of a resident student of Iowa attending a contiguous South Dakota school district is the sole responsibility of the student's parent or guardian. If the affected school districts create a transportation agreement, the amount shall not be less than the lower cost per mile for yellow. school buses for the previous year of the two affected school districts.

II - Students with Disabilities

1. The provision of special education and related services under this Agreement shall be pursuant to the Individuals with Disabilities Education Act (IDEA) 20 USC§ 1400 et. Seq., its regulations, 34 C.F.R. Part 300, the statutes and rules of the state of South Dakota, the policies and procedures of the South Dakota Department of Education, and the policies and procedures of the attending local South Dakota school district ("LEA"). If an Iowa resident student has an Individual Education Program ("IEP"), the attending LEA (in consultation with the parents) must provide the child with a Free Appropriate Public Education (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency (1) conducts an evaluation pursuant to §§ 300.304 through 300.306 (if determined to be necessary by the receiving public agency, and (2) develops, adopts, and implements a new IEP if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324 and under South Dakota Standards. The procedural safeguards (including but not limited to mediation, state complaints, and due process complaints) of South Dakota shall apply.

The Iowa resident district shall be responsible for paying the costs, as defined in paragraph (2) of this section, of special education and related services for each resident child with a disability who is served by the attending LEA.

2. For purposes of this Agreement an Iowa student, accepted to attend a South Dakota district, as specified in paragraphs 3-6, will be maintained on the sending district's Child Count for funding purposes. The disability level for which the student is assigned must be agreed upon by representatives of the resident and receiving district. If the request to transfer is granted and the disability level is agreed upon, the receiving district will provide the provisions for the student to receive a free appropriate public education for the student in need of special education or special education related services at the agreed rate of the disability level, in addition to the tuition rate set out in this Agreement.

3. For a request to transfer a student in need of special education or special education and related services, the following information must be transmitted to and determined by the receiving district:

- a) Upon receipt of an interstate enrollment application, copies of all relevant student education records on the student applying to transfer from the resident district;
- b) Completes a review of those relevant student education records; and
- c) Directly communicates with the student's parent or guardian and representatives of the resident district regarding the student's special education or special education and related services' needs.

4. If the receiving district confirms, based on the records review and communications with the student's parent or guardian and representatives of the receiving district, that it can provide an appropriate instructional program and facilities, including transportation, if necessary, to meet the needs of the student, it may proceed to approve the application. If the receiving district determines that it is not able to make that confirmation, the receiving district shall initiate an individual education program team meeting consisting of representatives from both the resident and receiving districts and the student's parents or guardians to determine whether the receiving district can provide appropriate instructional program, facilities and transportation, if necessary. Parents or guardians have the right to use IDEA's procedural safeguards to challenge this decision

5. A request to transfer a student in need of special education or special education and related services may be denied only if the application will result in overcrowding of the class, grade level or school building in which the student is to enroll, or if an individual education program team consisting of representatives from the resident and receiving districts determine that the receiving district cannot provide an appropriate instructional program and facilities, including transportation, to meet the student's needs.

6. For each student in need of special education or special education related services, the resident school district and student's parents or guardian will be invited to take part in an Individual Education Plan (IEP) meeting. If it is determined that an out-of-district (that is, out-of-receiving-district) placement is needed for the student, the resident school district will be solely responsible for the education, related services and all expenses for that student.

7. The IEP team consisting of representatives from the resident and receiving districts and the student's parents or guardian, shall also determine whether the student in need of special education requires transportation as a related service. If so, the resident district shall provide or ensure the provision of transportation within the boundaries of the resident district, and the receiving district shall provide or ensure provision of transportation within the boundaries of the receiving district.

II - Secondary Students' Eligibility to Participate in Interscholastic Athletics. A resident student of Iowa attending a contiguous South Dakota school district in grades 9 and above is a transfer student, and such student's eligibility to compete in varsity-level interscholastic athletics on behalf of the South Dakota school district is to be determined according to the rules of the South Dakota High School Activities Association.

Part III

Sharing agreements between Iowa and school districts for students in discontinued secondary school grades

III - Procedure. If there is an agreement between the boards of the two affected school districts and approved by both the Iowa Department of Education and the South Dakota Department of Education, school districts may enter into sharing agreements involving groups of students with a contiguous school district in the adjoining state.

The agreement reached between the local school boards is not required to be filed with the Iowa Secretary of State, but is a public document and must be made available to any person requesting a copy.

The Iowa school district involved must document its efforts to engage in a sharing agreement with other contiguous Iowa school districts prior to any agreement with the school district.

III - Finances. Funding for these agreements shall be through tuition reimbursement, which will include standardized testing and assessment costs. The tuition rate shall be the same as that computed under Parts I and II of this agreement for the two affected school districts. The tuition rate shall be recalculated annually in accordance with the provisions of this agreement.

III - Transportation. The agreement between districts can address transportation issues.

III - Students with disabilities. Dependent on where the student is receiving educational services, the provisions in Part I and II of this agreement apply.

Signatures.

DocuSigned by:
Dr. Ann Lebo
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Dr. Ann Lebo
Executive Director

05/01/2020

Date

DocuSigned by:
Benjamin F. Jones
542129012D15452...

Dr. Ben Jones
South Dakota Department of Education

04/30/2020

Date

APPENDIX A

Iowa Code section 282.8 (Attending school outside state.)

The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and high school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road.

Arrangements shall be subject to reciprocal agreements made between the chief state school officers of the respective states. Notwithstanding section 282.1, arrangements between districts pursuant to the reciprocal agreements made under this section shall establish tuition and transportation fees in an amount acceptable to the affected boards, but the tuition and transportation fees shall not be less than the lower average cost per pupil for the previous school year of the two affected school districts. For the purpose of this section average cost per pupil for the previous school year is determined by dividing the district's operating expenditures for the previous school year by the number of children enrolled in the district on the third Friday of September of the previous school year. A person attending school in another state shall continue to be treated as a pupil of the district of residence in the apportionment of the current school fund and the payment of state aid.

Iowa Code section 282.7(3) (Attending school outside state under Whole Grade Sharing)

A school district may negotiate an agreement for attendance of its pupils in a school district located in a contiguous state subject to a reciprocal agreement by the two state boards in the manner provided in this subsection. Prior to negotiating an agreement with the school district in the contiguous state, the board of directors shall file a written request with the state board of education for a determination whether the school district in the contiguous state meets requirements substantially similar to those required for accredited or approved school districts in this state and the school district receives or has available services equivalent to those that would be provided in this state by an area education agency. The school district shall also obtain approval by the department of education of the sharing proposal, before the agreement becomes effective. Six months before making the request for approval, the district shall request a feasibility study from the department of education. If the state board of this state and the corresponding state board in the contiguous state agree that the school districts of their respective states meet substantially similar requirements and have substantially similar services available to the school district, and if the Iowa department of education approves the proposed contract, the two state boards may sign a reciprocal agreement for attendance of their pupils in the school district of the other state, subject to the agreement signed between the boards of directors of the two districts. A school district that negotiates an agreement with a school district in a contiguous state under this subsection is not eligible for supplementary weighting under section 257.11 as a result of that agreement.

APPENDIX B**SOUTH DAKOTA CODIFIED LAW, CHAPTER 13-28A AND 13-28-19.1****OPEN ENROLLMENT AND TUITION REGULATION PROGRAMS WITH NEIGHBORING STATES**

13-28A-1. Open enrollment or tuition regulation programs--Agreements with neighboring states. The secretary of the Department of Education may enter into agreements with the appropriate parties from the states bordering South Dakota to establish an open enrollment or tuition regulation program between South Dakota and each neighboring state.

13-28 A-2. Open enrollment agreements--Contents. Any agreement to allow open enrollment between South Dakota school districts and a bordering state's school districts entered into pursuant to this chapter shall specify the following:

(1) If the bordering state sends more students to South Dakota than South Dakota sends to the bordering state, the bordering state will pay South Dakota an amount agreed upon for the excess number of students sent to South Dakota, and

13-28A-2.1. Tuition regulation program agreements--Contents. Any agreement to allow the regulation of tuition paid between South Dakota school districts and a bordering state's school districts entered into pursuant to this chapter shall specify the tuition rate to be paid by all local school districts on behalf of students enrolled in the school district of a bordering state. However, no tuition regulation program agreement established pursuant to § 13-28A-1 may specify a rate of tuition that is greater than one hundred ten percent of the per student equivalent as defined in § 13-13-10.1

13-28A-3. Application procedure--Agreement to specify. Any agreement entered into pursuant to this chapter shall specify the application procedures for the enrollment options program between South Dakota and the bordering state.

13-28A-4. Reasons application may be denied--Application to specify. Any agreement entered into pursuant to this chapter shall specify the reasons for which an application for the enrollment options program between South Dakota and the bordering state may be denied.

13-28A-5. South Dakota school district not responsible for transportation to bordering state--Agreement to specify. Any agreement entered into pursuant to this chapter shall specify that a South Dakota school district is not responsible for transportation for any resident student attending school in a bordering state under the provisions of this chapter. However, a South Dakota school district may, at its discretion, provide transportation services for such a student.

13-28A-6. Additional terms relating to special education and related services. Any agreement entered into pursuant to this chapter may specify additional terms relating to any student in need of special education or special education and related services pursuant to chapter 13-37.

13-28A-7. Student from bordering state included in South Dakota receiving school district's fall enrollment for aid purposes. If South Dakota enters into an open enrollment

agreement with a bordering state, for the purposes of state aid to education distributed pursuant to chapter 13-13, any student open enrolled to a South Dakota district from a bordering state is included in the receiving school district's fall enrollment.

13-28A-8. South Dakota student sent to bordering state not included in resident school district's fall enrollment for aid purposes. If South Dakota enters into an open enrollment agreement with a border state for the purposes of state aid to education distributed pursuant to chapter 13-13, any student sent to a bordering state from South Dakota may not be included in the resident school district's fall enrollment.

13-28A-9. Student from resident school district not receiving state aid--Enrollment in bordering state without payment to state prohibited. Any student whose resident school district does not receive state aid to education under the provisions of chapter 13-13 or 13-37 may not open enroll in the district of a bordering state unless the student's resident school district pays the State of South Dakota an amount equal to the per student allocation as defined in chapter 13-13 or 13-37 for each student open enrolled to a bordering state.

13-28A-10. Promulgation of rules. The Department of Education may promulgate rules pursuant to chapter 1-26 to establish procedures relating to the application process, the collection or payment of funds under the provisions of any agreement established pursuant to this chapter, and data regarding numbers of graduating seniors.

13-28A-11. [Repealed]

13-28A-12. School district not entitled to additional funding. Other than funding provided through chapters 13-13 and 13-37, no South Dakota school district is entitled to any compensation for any student attending a South Dakota school district under the provisions of this chapter.

13-28A-13. Effect of tuition regulation agreement on school district's fall enrollment for aid purposes. If South Dakota enters into a tuition regulation agreement with a bordering state, for purposes of state aid to education distributed pursuant to chapter 13- 13, any student for whom tuition is paid to a South Dakota district from a bordering state is not included in the receiving school district's fall enrollment.

If South Dakota enters into a tuition regulation agreement with a bordering state, for purposes of state aid to education distributed pursuant to chapter 13-13, any student for whom tuition is paid from a South Dakota district to a bordering state's district is included in the South Dakota school district's fall enrollment.

13-28A-14. Entitlements where tuition rate and per student equivalent differ. If the rate of tuition specified in a tuition regulation program agreement established pursuant to § 13-28A-1 is greater than the per student equivalent as defined in § 13-13-10.1, any South Dakota school district that pays tuition to a bordering state school district in accordance with that agreement is entitled to the difference between the rate of tuition and the per student equivalent for each student for whom tuition is paid.

If the rate of tuition specified in a tuition regulation program agreement established pursuant to § 13-28A-1 is less than the per student equivalent, any South Dakota school district that receives tuition from a bordering state school district in accordance with that agreement is entitled to the difference between the per student equivalent and the rate of tuition for each student for whom tuition is received.

The entitlements created in this section shall be paid out of money appropriated in the general appropriations act for state aid to education.

13-28A-15. Effect of chapter on existing agreements. Nothing in this chapter may be construed to prevent a school district which has a contract with a bordering state from continuing that contract.

13-28-19.1. Student assignment where school district dissolves and is annexed to another district. If a school district that was contracting pursuant to § 13-15-11 dissolves and is annexed to another school district before July 1, 2020, the school board for the school district to which the former contracting school district is annexed shall, for the current school year and for each school year thereafter, assign the students who reside in land area that was part of the former contracting district to the school that was receiving the students under the contract. The rate of tuition paid per year to the receiving school district may not be less than the per student equivalent as defined in

§ 13-13-10.1 for that school fiscal year and is not subject to the tuition limitation in § 13-28A-2.1. In addition, the school district to which the former contracting school district is annexed may compensate the receiving school district for all or any portion of the transportation or other costs associated with the students attending school in the receiving school district. If the parent or guardian of a student assigned to a school district in a bordering state pursuant to this section disapproves of the student's assignment, the school board shall assign that student to an attendance center within the district. However, notwithstanding any other provision of law, the school district is not required to provide transportation to that student.