



## IOWA DEPARTMENT OF EDUCATION

### *Varsity Athletic Eligibility of Students Open Enrolling due to Bullying and Harassment*

*September 9, 2016*

#### **PURPOSE**

On April 7, 2016 [House File 2264](#) signed into law by Governor Branstad allows the following exception to ninety day ineligibility for participation in athletic competitions for students open enrolling:

“... 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.”

This means any student will be immediately eligible for varsity athletic competitions if the resident district has determined that the student exercising open enrollment was subject to a founded incident of harassment or bullying as defined by Iowa Code section 280.28.

#### **FREQUENTLY ASKED QUESTIONS**

1) What is harassment and bullying?

As defined by Iowa Code section 280.28: “Harassment” and “bullying” shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

- Places the student in reasonable fear of harm to the student’s person or property.
- Has a substantially detrimental effect on the student’s physical or mental health.
- Has the effect of substantially interfering with a student’s academic performance.
- Has the effect of substantially interfering with the student’s ability to participate in or benefit from the services, activities, or privileges provided by a school.

2) Who determines if a pupil who has open enrolled into a new school district has been the victim of bullying or harassment?

The resident district makes that determination based upon the definitions in Iowa Code section 280.28.

3) What if the parent disagrees with the determination?

If the parent disagrees with the determination by the resident district, the recourse available to a parent is provided for in the local bullying and harassment policy.

4) What procedure does the resident district follow to determine if the bullying and harassment is founded?

The resident district is required by Iowa Code section 280.28, subsection 3, to have and follow its local bullying and harassment policy. Please refer to local district policies for the procedure.

5) Can a pupil or the parent of that pupil claim that he or she was the victim of bullying or harassment after open enrollment was approved?

No. If the open enrollment application was approved before there was a founded incident of bullying and harassment, the student is not immediately eligible for athletics under this code section. The statute specifically states “previously” a victim of bullying and harassment.

6) Does this change apply to new open enrollment applications approved for harassment and bullying by the resident district for the 2016-2017 school year?

Yes. If the student has a previous founded incident or bullying and harassment in the resident district.

7) Does this change apply to a student already open enrolled out of the resident district that wants to return to the resident district?

No. A student who has open enrolled out of the district and wants to return to the resident district is ending the open enrollment. Thus, the open enrollment transfer rule would not apply. The transfer rule would apply to the transfer back to the resident district.

8) Does this change apply to students attending or planning to attend nonpublic schools?

No. The law only pertains to a student open enrolling from the resident public district to another public school district.

9) Who should I contact about eligibility?

The local school district makes the determination about eligibility. Questions by the receiving district about whether or not an open enrolled student was previously subject to a founded incident of harassment or bullying should be directed to the district of residence.

10) What activities does this law apply to?

This applies only to athletic competitions sanctioned by the Iowa High School Athletic Association and the Iowa Girls' High School Athletic Union. This does not apply to other extracurricular activities.

11) Is a decision regarding eligibility under Iowa Code Section 282.18, subsection 11, as amended by House File 2264, appealable to the executive boards of the Iowa High School Athletic Association or the Iowa Girls' High School Athletic Union?

No.