

TITLE 33
EDUCATION

CHAPTER 14
TRANSFER OF PUPILS

33-1401. DEFINITIONS. For the purposes of tuition charges and payments, the following words and phrases shall have these meanings:

1. "District" means any public school district including specially chartered school districts.
2. "Residence" of a pupil means the residence of his parent or guardian.
3. "Home district" means the school district of the pupil's residence.
4. "Creditor district" means a district in which nonresident pupils are in attendance.
5. "Nonresident pupils" mean pupils attending schools in districts other than their home districts, or from other states.
6. "Debtor district" means the home district of nonresident pupils.
7. "Pupil" means a pupil in any grade, kindergarten through twelve (12).
8. "Elementary pupil," in the case of districts not giving instruction above grade eight (8), means any pupil. In all other districts it means any pupil in grades kindergarten through six (6).
9. "Secondary pupil" means, in the case of districts which give instruction beyond grade eight (8) any pupil in grades seven (7) through twelve (12).
10. "Guardian" means any person so designated by court order, or any person with whom the pupil is residing and making his home on a full-time basis, provided such person has in his possession a properly executed power of attorney for the care and custody of the pupil for a period of time not less than the balance of the school term.

[33-1401, added 1963, ch. 13, sec. 72, p. 27; am. 1974, ch. 76, sec. 1, p. 1163; am. 1990, ch. 43, sec. 1, p. 67.]

33-1402. ENROLLMENT OPTIONS. (1) Each school district shall implement an enrollment options program as provided in this section. School districts shall adopt policies to govern the process for enrollment options pursuant to this chapter, including in-district transfers. The policies shall prohibit discrimination against any pupil on the basis of his residential address, ability, disability, race, ethnicity, sex, or socioeconomic status. Such policies shall be posted to the school district's website. Schools of choice within a district that have lottery enrollment policies are not subject to the provisions of this chapter.

(2) Whenever the parent or guardian of any Idaho pupil determines that it is in the best interest of the pupil to attend a school within another district, or to attend another school within the home district, such pupil, or pupils, may be transferred to and attend the selected school, subject to the provisions of this section and section [33-1404](#), Idaho Code.

(3) The pupil's parent or guardian must apply for admission to a school within another district, or to another school within the home district, on a form provided by the state department of education or a district-provided form that is substantially similar. The application, must be submitted to the receiving school district by February 1 for enrollment during the following school year and notice of such application given to the home district.

At the time of application, the parent or guardian must request that the home district or school forward the pupil's student record. The home district or school shall respond by forwarding a certified copy of the transferred student's record within ten (10) days, unless the provisions of section [18-4511](#), Idaho Code, apply. The receiving school district, or the receiving school within the home district, shall notify the applicant within sixty (60) days and, if denied, must include written explanation of the denial.

(4) There may be times during the school year when a parent or guardian believes it is in the best interest of the pupil to transfer schools. Open enrollment applications shall be accepted at any time throughout the year. However, those applications received after the February 1 deadline will be considered based on capacity stated in policy at the receiving district.

(5) Priority for enrollment under this section shall be given to pupils applying to attend another school within the home district.

(6) A district may deny a transfer application for the following reasons:

- (a) The pupil was expelled by the pupil's previous district;
- (b) The pupil has a documented history of significant disciplinary issues;
- (c) The pupil has a documented history of chronic absenteeism; or
- (d) The receiving district does not have space available pursuant to section [33-1409](#), Idaho Code. Where applicable, a denial may include information about other schools that are below maximum enrollment.

(7) For a pupil accepted by the receiving school or district, the parent or guardian does not need to re-apply to regain acceptance the next school year. However, the parent or guardian must provide notice to the receiving school or district of intent for the pupil to re-enroll. The district may prescribe the form of notice. Once a pupil has been enrolled at the same school for a second consecutive year, the pupil may complete his education at such a school, unless the pupil's approved transfer has been revoked pursuant to this section.

(8) Whenever any pupil enrolls in and attends a school outside the district within which the parent or guardian resides, the parent or guardian shall be responsible for transporting the pupil to and from the school or to an appropriate bus stop within the receiving district. For students attending another school within the home district, the parent or guardian is responsible for transporting the pupil to and from an appropriate bus stop. Tuition shall be waived for parents or guardians of any Idaho pupils allowed under the provisions of this section. Tuition charged to the debtor district may be waived by the creditor district.

(9) A pupil who applies and is accepted in a nonresident school district is subject to the policy of the receiving school district and shall be ineligible to again apply for an enrollment option or the transfer approval may be revoked in that nonresident district if:

- (a) The pupil is chronically absent;
- (b) The pupil commits repeated, serious disciplinary infractions;
- (c) The pupil commits disciplinary infractions that result in expulsion; or
- (d) The school in which the student is enrolled exceeds maximum enrollment of resident pupils due to growth. However, pursuant to subsection (7) of this section, the receiving district may not revoke a transfer approval to a school after two (2) consecutive years of attendance. If a transfer approval is revoked under this subsection, the receiving dis-

district must offer the pupil information about other schools within the district that are below maximum enrollment.

(10) A receiving school shall inform the parent or guardian of the circumstances that jeopardize the student's status at a transfer school.

(11) No district shall take any action to prohibit or prevent application by resident pupils to attend school in another school district or to attend another school within the home district.

[33-1402, added 1990, ch. 43, sec. 2, p. 68; am. 1993, ch. 76, sec. 1, p. 202; am. 2023, ch. 156, sec. 1, p. 420.]

33-1403. TRANSFER OF PUPILS BY INITIATIVE OF THE BOARD OF TRUSTEES. (1) Whenever the board of trustees of any school district shall determine that it is in the best interest of any of its pupils to attend school in another district within this state, the boards of trustees of the districts may annually agree, in writing, that such pupil or pupils shall be transferred to and attend the designated school or schools of the other district party to the agreement.

(2) Whenever the board of trustees of any Idaho school district abutting upon another state shall determine that it is in the best interest of any of its pupils to attend school in a school district in such neighboring state, the board of trustees may annually agree, in writing, with the governing board of the nearest appropriate school district in the neighboring state for the education, and transportation if the school district attended abuts on the home district, of such pupil or pupils. Any such agreement shall specify the rate of tuition, and cost of transportation if any, to be paid by the Idaho school district, and the agreement shall be entered into the records of the board of trustees and a copy thereof shall be filed with the state board of education.

(3) The board of trustees of any Idaho school district, as a creditor district, may, subject to the approval of the state board of education, enter into an agreement with the governing body of any school district in another state, as the debtor district, to educate, and if necessary transport, any of the pupils of such debtor district upon such terms and conditions as may be agreed upon and approved, but the rate of tuition to be charged by the Idaho school district shall be not less than the gross per-pupil cost of the credit district, as defined in section [33-1405](#), Idaho Code, plus the per-pupil costs paid by the state for the employer's share of social security, and the employer's share of retirement for the employees of the creditor district for the previous fiscal year, and other appropriate costs, all as determined by the state board of education. A copy of the agreement shall be entered into the records of the board of trustees and a copy thereof shall be filed.

(4) No pupil shall be transferred to any school without the notification and consent of the pupil's parent or guardian.

[33-1403, added 1963, ch. 13, sec. 74, p. 27; am. 1973, ch. 117, sec. 1, p. 218; am. 1975, ch. 22, sec. 2, p. 34; am. 1976, ch. 85, sec. 2, p. 290; am. 1978, ch. 174, sec. 1, p. 398; am. 2023, ch. 156, sec. 2, p. 422.]

33-1404. DISTRICTS TO RECEIVE PUPILS. (1) Every school district shall receive and admit pupils transferred thereto.

(2) Nonresident pupils who are placed by court order under provisions of the Idaho juvenile corrections or child protective acts and reside in li-

censed homes, agencies and institutions shall be received and admitted by the school district in which the facility is located without payment of tuition.

(3) Homeless children and youth as defined by the McKinney-Vento homeless assistance act, 42 U.S.C. 11301 et seq., may attend any school district or school within a district without payment of tuition when it is determined to be in the best interest of that child.

[33-1404, added 1963, ch. 13, sec. 75, p. 27; am. 1978, ch. 174, sec. 2, p. 399; am. 1983, ch. 85, sec. 2, p. 176; am. 1990, ch. 43, sec. 3, p. 69; am. 1990, ch. 272, sec. 1, p. 766; am. 2001, ch. 93, sec. 3, p. 235; am. 2004, ch. 23, sec. 6, p. 28; am. 2010, ch. 235, sec. 15, p. 555; am. 2023, ch. 156, sec. 3, p. 422.]

33-1405. RATES OF TUITION -- TUITION CERTIFICATES. (1) The state department of education shall prepare and distribute all necessary forms and shall issue to each school district, annually, a tuition certificate bearing a serial number, which certificate shall authorize the receiving district to charge and to bill for the tuition of its nonresident pupils where tuition has not been waived.

(2) In determining tuition rates to be charged by any creditor school district, the state department of education shall compute the sum of that district's maintenance and operation costs, depreciation on its buildings, equipment, and other property, and the interest, if any paid by it on bonded debt or registered warrants. The said state department of education shall then compute what proportion of the sum of said costs, depreciation, and interest is allocable to elementary schools and what proportion is allocable to secondary schools in the district. The proportion allocable to elementary schools shall then be divided by the average daily attendance of elementary school pupils, and the proportion allocable to secondary schools shall be divided by the average daily attendance of secondary school pupils, in the district, and the amount so determined shall be the gross per-pupil cost, elementary or secondary, as the case may be. The net per-pupil cost shall be the gross per-pupil cost less the per-pupil apportionment to the district of any foundation program funds.

(3) Computations of tuition rates shall be made as of the school year next preceding the year for which tuition charges are determined and made.

(4) Charges for tuition made by any creditor school district shall be its net per-pupil cost, as hereinabove defined; except that its gross per-pupil cost shall be charged where any pupil has transferred to the creditor district by transfer other than one prescribed by section [33-1403](#), Idaho Code, or where the home district of any pupil attending school in the creditor district is without the state of Idaho.

(5) The board of trustees of a school district may request a waiver from the state board of education of any portion of the tuition rate determined pursuant to this section. A waiver request must be made for each individual student and may be requested for up to four (4) years, subject to annual review by the local board of trustees. Waivers must be requested before April 1 of the year prior to the operative date.

[33-1405, added 1963, ch. 13, sec. 76, p. 27; am. 1985, ch. 107, sec. 13, p. 207; am. 1990, ch. 43, sec. 4, p. 69; am. 2005, ch. 97, sec. 1, p. 317; am. 2023, ch. 156, sec. 4, p. 423.]

33-1406. **BILLS OF TUITION.** (1) Bills of tuition for nonresident pupils shall be rendered by each creditor district and for nonresident pupils attending any school of the creditor district under the provisions of section [33-1403](#) or [33-1404](#), Idaho Code, the bill of tuition shall be submitted to the home district of such pupils. The creditor district may submit to the parent of any out-of-state pupil attending school in its district a bill of tuition of such pupil, and such parent shall be liable for the payment of said tuition, if so billed. Tuition reimbursement for nonresident pupils who are placed by court order under provisions of the Idaho juvenile corrections or child protective acts may be obtained by the creditor district through procedures established in section [33-1002](#), Idaho Code, for nonresident tuition-equivalency allowance.

(2) Each bill of tuition submitted to a home district shall show the serial number of the tuition certificate last issued to the creditor district by the state department of education and shall show also the number of pupils for whom tuition is charged, which charge shall be as shown by the said tuition certificate.

(3) Bills of tuition, if submitted other than annually, shall be apportioned according to the number of school months for which any such bill is applicable. A fraction of a school month shall be deemed a school month.

[33-1406, added 1963, ch. 13, sec. 77, p. 27; am. 1974, ch. 76, sec. 2, p. 1163; am. 1976, ch. 85, sec. 3, p. 291; am. 1983, ch. 85, sec. 3, p. 177; am. 1985, ch. 107, sec. 14, p. 208; am. 2004, ch. 23, sec. 7, p. 29; am. 2012, ch. 257, sec. 9, p. 716; am. 2023, ch. 156, sec. 5, p. 424.]

33-1407. **PAYMENT OF TUITION -- SUIT TO RECOVER PAYMENT.** The board of trustees of any debtor district shall allow and order paid any bill for tuition received by it in proper form, at the first regular meeting following receipt of said bill.

Whenever any school district, or person, liable for the payment of tuition, shall fail or refuse to pay the same after payment thereof is due, the creditor district may commence suit against such district or person in the district court in and for the county in which such district maintains its administrative offices, or in which such person resides.

[33-1407, added 1963, ch. 13, sec. 78, p. 27.]

33-1408. **SPECIAL LEVY FOR TUITION.** Any school district is hereby authorized to make a levy above the maintenance and operation levy otherwise authorized by law for the purpose of paying tuition costs of its students who, under authorization of the board of trustees of the district, attend school in another district in Idaho. Such levy shall be exempt from the provisions of section [63-802](#), Idaho Code.

[33-1408, added 1981, ch. 235, sec. 1, p. 475; am. 1983, ch. 237, sec. 1, p. 643; am. 1996, ch. 208, sec. 8, p. 666; am. 1996, ch. 322, sec. 29, p. 1060; am. 2006, 1st Ex. Sess., ch. 1, sec. 12, p. 55.]

33-1409. **MEASURING AND REPORTING CAPACITY.** (1) Every school district must determine maximum enrollment for each grade-level. The district will use the maximum enrollment to determine space available for transfer applications. For secondary grades, a district may use core classroom size per grade level as the standard to determine maximum enrollment.

(2) Not less than four (4) times during the school year, every school district shall publicly post on its website the space available at each grade-level and at each school. Space available shall be determined by comparing the maximum enrollment to the number of pupils actually enrolled. A school district that does not meet the minimum sample size necessary to prevent unlawful release of personally identifiable student data established pursuant to subsection (5) of this section is not subject to the publication requirements pursuant to this subsection.

(3) Not less than four (4) times during the school year, every school district shall report to the state reporting system the space available at each grade-level, school, and in each program, the number of transfer applications, the number of accepted transferred pupils, and the number of denied applications.

(4) By September 1 each year, the state board of education shall collect, analyze, and publish to its website the capacity and transfer data from each school district from the previous year. The report shall include the number of participants, the number of denied applications, and other relevant information. The state board of education shall also report this information to the legislature no later than February 1 of each year.

(5) The state board of education shall not publish or release data of a school district if the number of students who applied for a transfer is less than the minimum sample size necessary for prevention of the unlawful release of personally identifiable student data. The state board of education shall establish the minimum number of students necessary to meet the requirements of this subsection.

[33-1409, added 2023, ch. 156, sec. 6, p. 424.]

33-1410. STUDENT APPEALS. (1) If a transfer request is denied by a receiving school or district, a parent or guardian may request an administrative review by the board of trustees of the receiving district. The parent or guardian must request the review within five (5) school days of receiving the written denial notice. The board of trustees shall consider the appeal at its next regularly scheduled meeting. The board of trustees must issue its decision in writing.

(2) If a pupil's approved transfer is revoked, the pupil's parent or guardian may request an administrative review by the board of trustees of the receiving district. The parent or guardian must request the review within five (5) school days of receiving the written notice of the transfer revocation. The board of trustees shall consider the appeal at its next regularly scheduled meeting. The board of trustees must issue its decision in writing.

(3) The parent or guardian may appeal the board of trustees decision under this section to the state board of education and must do so within ten (10) school days of receiving the district's written decision. The state board of education shall review the appeal. When appropriate, the state board of education shall consider the appeal at its next regularly scheduled meeting, where the parent and a representative from the receiving school district may address the state board of education. The state board of education may promulgate rules to establish the appeals process authorized by this subsection.

[33-1410, added 2023, ch. 156, sec. 7, p. 425.]