

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. Beginning with the 1991-92 school year, an enrollment options program shall be implemented as provided in this section.

Whenever the parent or guardian of any 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. The pupil's parent or guardian must apply annually 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. The application, accompanied by the pupil's accumulative record, 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. 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. Upon agreement between the resident and the nonresident school boards, or between the affected schools within the home district, the deadlines for application may be waived. 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 any pupils allowed under the provisions of this section.

No pupil shall gain eligibility to participate in extracurricular activities in violation of policies governing eligibility as a result of an enrollment option transfer to another school district.

A pupil who applies and is accepted in a nonresident school district, but fails to attend the nonresident district, shall be ineligible to again apply for an enrollment option in that nonresident district.

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. By resolution of the board of trustees, any district may opt not to receive pupils in the enrollment options program.

A pupil under suspension or expulsion shall be ineligible for the provisions of this section.

The state department of education shall conduct an annual survey of districts participating in the enrollment options program to determine the number of participants, the number of denied applications, the effectiveness of the program, and other relevant information, and prepare an annual report of the program.

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

33-1403. TRANSFER OF PUPILS BY INITIATIVE OF THE BOARD OF TRUSTEES. 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.

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 filed with the state board of education.

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 with the state board of education.

[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.]

33-1404. DISTRICTS TO RECEIVE PUPILS. Every school district shall receive and admit pupils transferred thereto, where payment of their tuition is to be paid by the home district, or waived by the receiving district, except when any such transfer would work a hardship on the receiving district. Each receiving school district shall be governed by written policy guidelines, adopted by the board of trustees, which define hardship impact upon the district or upon an individual school within the district. The policy shall provide specific standards for acceptance and rejection of applications for accepting out of district pupils. Standards may include the capacity of a program, class, grade level or school building. Standards may not include previous academic achievement, athletic or other extracurricular ability, disabling conditions, or proficiency in the English language.

Nonresident pupils who are placed by court order under provisions of the Idaho juvenile corrections or child protective acts and reside in licensed homes, agencies and institutions shall be received and admitted by the school district in which the facility is located without payment of tuition.

Homeless children and youth as defined by the McKinney-Vento homeless assistance act 42 U.S.C. section 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.]

33-1405. RATES OF TUITION -- TUITION CERTIFICATES. 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.

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.

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

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.

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.]

33-1406. **BILLS OF TUITION.** 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. In all other cases, the creditor district may submit to the parent of any nonresident 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.

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.

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.]

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.]