AMENDED IOWA AND SOUTH DAKOTA TUITION AGREEMENT

This agreement is entered into pursuant to Iowa Code Section 282.8, and South Dakota (SDCL 13-28A),[1] permitting attendance of resident students of one state to attend school in the other under the terms and conditions set forth below. This agreement supersedes all previous agreements between the states of Iowa and South Dakota, effective June 30, 2010. The previous Iowa and South Dakota Tuition Agreement, dated October 23, 2008, by the Iowa Department of Education, and dated November 18, 2008, by the South Dakota Department of Education, shall remain in full force and effect until June 30, 2009, and then will be replaced by this agreement.

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 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.

Duration of Agreement. This agreement shall commence on the 1st day of July 1, 2010, effective initially for the 2010-2011 school year, and, subject to renewal, terminate on the 30th day of June, 2017. This agreement may be renewed by the parties for periods of time not to exceed eight (8) number of years. 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 This agreement shall terminate if the enabling statutory authority in either state is rescinded.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 270 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 270 days prior to the termination.

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

I- Procedure. If a resident student of South Dakota desires to attend an Iowa school district, the parent or guardian of the student may file for enrollment to the Iowa school district under the following application procedure.

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[1] See Appendices A and B

a. The parent or guardian of a student who is a resident of 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 states.

b. The student must be under 21 years of age as of July 1 for the enrollment the following school year.

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 administration office.

h. A receiving district shall accept credits toward graduation awarded by the resident district provided the credits meet state and local requirements for graduation from the receiving district. Each of the school districts must award a diploma to receiving students 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. The SD DOE shall pay the Iowa DOE an amount of tuition to be agreed upon by these two agencies, but in any event an amount not less than the cost per pupil for the previous school year of the Iowa school district. The Iowa DOE will in turn pay this tuition to Iowa school district receiving student as a result of this agreement. The state aid fall enrollment of South Dakota school district will be adjusted to compensate SD DOE for the tuition paid to the Iowa DOE. SDCL 13-28A authorizes South Dakota to enter into a tuition agreement with Iowa (Iowa Code section 282.8). The tuition rate is subject to renewal

annually in accordance with the provisions of this agreement. Using a base tuition rate of $5,750 as the baseline, the tuition rate for the school year will increase by the Consumer Price Index-Urban Wage and Clerical Workers (CPI-W) and reviewed every three years. The tuition rate will increase annually by the CPI-W. The same tuition rate applies to all K-12 grade levels.

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.

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 of the agreement is the sole responsibility of the student's parent or guardian.

I – Students with Disabilities. 1. The provision of special education and related services under this agreement shall be pursuant to the 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 AEA and LEA ("Iowa standards"). If a South Dakota resident student has an IEP, the attending AEA and LEA (in consultation with the parents) will provide comparable services while (1) conducting an evaluation according to Iowa standards (if determined to be necessary, under Iowa standards, by the attending AEA and LEA), and (2) developing, adopting, and implementing a new IEP under Iowa standards (if the child is determined to be an eligible individual under 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, will be maintained on the sending district's SD Child Count for funding purposes. 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 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. Notwithstanding any other provisions of this agreement, 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 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 service 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 to determine whether the receiving district can provide appropriate instructional program, facilities and transportation, if necessary.

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 and 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 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.

I – Secondary Students' Eligibility to Participate in Interscholastic Athletics. 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).

Part II

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

(See Appendix B)

II – Procedure. A resident student of Iowa may attend a contiguous South Dakota school district pursuant to this Part of the agreement 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 and approved by both the Iowa Department of Education and the South Dakota Department of Education.

> 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.

II – Finances. The Iowa district of residence shall pay to the South Dakota district an amount of tuition to be agreed upon by SD DOE and Iowa DOE, but in any event an amount not less than the cost per pupil for the previous school year of the Iowa school district (Iowa Code section 282.8). The tuition rate is subject to renewal annually in accordance with the provisions of this agreement. Using a base tuition rate of $5,750 as the baseline, the tuition rate for 2009-2010 school year will be increased by the Consumer Price Index-Urban Wage and Clerical Workers (CPI-W) and reviewed every three years. The tuition rate will increase annually by the CPI-W. The same tuition rate applies to all K-12 grade levels.

II – Transportation. Unless the affected school boards 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.

II – Students with Disabilities.

1. The provision of special education and related services under this agreement shall be pursuant to 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 AEA and LEA. If an Iowa resident student has an IEP, the attending AEA and LEA (in consultation with the parents) will provide comparable services while (1) conducting an evaluation according to South Dakota standards (if determined to be necessary, under South Dakota standards by the attending AEA and LEA), and (2) developing, adopting, and implementing a new IEP under South Dakota standards (if the child is determined to be an eligible individual 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 AEA and 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 districts. 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. Notwithstanding any other provisions of this agreement, 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 the 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 parents 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 to determine whether the receiving district can provide appropriate instructional program, facilities and transportation, if necessary.

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 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 district 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.

Signatures.

Judy A. Jeffrey, Director
Iowa Department of Education

10-22-09
Date

Tom Oster, Secretary
South Dakota Department of Education

10-15-09
Date

APPENDIX A
(SDCL 13-28A)

13-28A-1. 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.

13-28A-2. 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

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

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 allocation as defined in subdivision 13-13-10.1(4).

13-28A-3. 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. 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. 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. 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. 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. 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-10. 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.

APPENDIX B

Iowa Cost 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 agreement 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.