



Interpretation of Iowa Code § 285.1(22)

November 2021

History: This document is an update of a memorandum dated August 25, 1995 from the Department of Education to AEA Administrators and [LEA] Superintendents. It was prepared by Carol Greta and Max Christensen in September 2006 as general guidance to AEA and LEA personnel. The interpretation was reevaluated and reapproved by General Counsels Nicole Proesch and Thomas Mayes on August 22, 2017. It has again been reevaluated and reapproved by General Counsel Thomas Mayes and is current as of November 1, 2021. This interpretation is for guidance only and is not intended as legal advice to the reader.

Issue:

When are school districts required to provide free transportation to and from school for an elementary pupil who attends daycare?

Discussion:

Free transportation to and from school of elementary (non-high school) pupils is to be provided by the school district of residence if the pupils “live more than two miles from the school designated for attendance.” Iowa Code § 285.1(1)(a).

This basic rule is conditioned by subsection (22) to 285.1, which states as follows:

22. Notwithstanding subsection 1, paragraph "a", a parent or guardian of an elementary pupil entitled to transportation pursuant to subsection 1, may request that a child care facility be designated for purposes of subsection 9 rather than the residence of the pupil. The request shall be submitted for a period of time of at least one semester and may not be submitted more than twice during a school year.

The above-referenced subsection (9) explains how distance between school and a pupil's residence are to be measured. When the parent or guardian of an elementary pupil entitled to transportation designates a child care facility in lieu of the pupil's residence, subsection (9) logically reads as follows:

9. Distance to school or to a bus route shall in all cases be measured on the public highway only and over the most passable and safest route as determined by the area education agency board, starting in the roadway opposite the private entrance to the [designated child care facility] and ending in the roadway opposite the entrance to the school grounds or designated point on bus route.

The term “child care facility” is not a term used carelessly or accidentally by the Legislature. When subsection (22) was first added to 285.1 in 1987 the language was identical to what exists today except that the reference was to “a child day care facility.” Not coincidentally, this is the term that was used at the time in Iowa Code chapter 237A, the statute that describes oversight of such facilities by the Department of Human Services (DHS). In 1999 when chapter 237A was amended to eliminate the word “day,” a parallel change was made to 285.1(22).



A “child care facility” includes three entities. Such a facility may be a:

- (1) child care center,
- (2) a preschool, or
- (3) a registered child development home

The term – as defined in chapter 237A – does *not* include a “child care home,” which is an entity that does not have to be licensed or registered with DHS. A child care center must be licensed pursuant to Iowa Code § 237A.2; a preschool must be licensed or must meet standards set by this agency; and a registered child development home – by its label – must be registered with DHS. Thus, all entities that could be a “child care facility” must be licensed by or registered with DHS or governed by the Department of Education.

In Conclusion:

Thus, this agency believes that Iowa Code § 285.1(22) is available in a situation where all the following criteria are met:

1. The pupil is an elementary pupil.
2. The pupil attends a child care facility; that is, a licensed child care center, a preschool, or a registered child development home.
3. The residence of the pupil is more than two miles from the pupil’s attendance center.
4. The pupil’s child care facility is more than two miles from the pupil’s attendance center in accordance with § 285.1(9).

We note in closing that a resident district may provide *discretionary* transportation to any pupil for whom all the above criteria do not apply. Of course, a district may charge a fee pursuant to § 285.1(1) and (12) for discretionary transportation.