

Iowa State Board of Education

Executive Summary

June 20, 2024



Agenda Item: Rules – Technical Corrections (Chapters 12, 21, 41, 43, 44, and 98)

State Board Priority: All

State Board Role/Authority: The State Board has the authority to provide notice of intended rulemaking under Iowa Code section 256.7.

Presenter(s): Thomas A. Mayes, General Counsel

Attachment(s): One

Recommendation: It is recommended that the State Board give notice of its intent to amend the six listed chapters.

Background: This is a technical correction rulemaking. This rulemaking adds dates certain for standards incorporated by reference, as required by Iowa Code section 17A.6, adds content to school bus construction standard that was inadvertently omitted in the Executive Order 10 review, and removes surplus language regarding special education mediation that was inadvertently retained during the Executive Order 10 review.

EDUCATION DEPARTMENT[281]

Notice of Intended Action

The State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Chapter 21, “Community Colleges,” Chapter 41, “Special Education,” Chapter 43, “Pupil Transportation,” Chapter 44, “School Buses,” and Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.6(5).

Purpose and Summary

This is a technical correction rulemaking. This rulemaking adds dates certain for standards incorporated by reference, as required by Iowa Code section 17A.6, adds content to school bus construction standard that was inadvertently omitted in the Executive Order 10 review, and removes surplus language regarding special education mediation that was inadvertently retained during the Executive Order 10 review.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Education no later than 4:30 p.m. on August 13, 2024. Comments should be directed to:

Thomas A. Mayes
Iowa Department of Education
Grimes State Office Building
400 E. 14th Street
Des Moines, IA 50319
thomas.mayes@iowa.gov
515-281-8661

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1) “b,” an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action proposed:

ITEM 1. Amend subrule 12.3(4), last paragraph, as follows:

The board is to adopt a policy concerning the accessibility and confidentiality of student records that complies with the provisions of the federal Family Educational Rights and Privacy Act of 1974, as effective on February 7, 2024, and Iowa Code chapter 22.

ITEM 2. Amend subrule 12.5(13) as follows:

12.5(13) Unit. A unit is a course that meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization, as effective on February 7, 2024; or it is an equated requirement as a part of a flexible student and school support program filed as prescribed in rule 281—12.9(256). A fractional unit will be calculated in a manner consistent with this subrule. Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit, unless otherwise provided by Iowa Code section 256.11.

ITEM 3. Amend subparagraph **12.8(1)“c”(2)** as follows:

(2) Content standards and benchmarks. The board will adopt clear, rigorous, and challenging content standards and benchmarks in reading, mathematics, and science to guide the learning of students from the date of school entrance until high school graduation. Included in the local standards and benchmarks are the core content standards from Iowa’s approved standards and assessment system under the applicable provisions of the federal Elementary and Secondary Education Act, as effective on February 7, 2024. Standards and benchmarks may be adopted for other curriculum areas defined in rule 281—12.5(256).

ITEM 4. Amend subparagraph **21.2(12)“b”(5), item 3**, as follows:

3. The individual is a covered person under Section 702 of the Veterans Access, Choice and Accountability Act of 2014 or subsequent legislation, as effective on February 7, 2024.

ITEM 5. Amend rule **281—21.41(260C)**, definitions of “apprenticeship program” and “certification” or “certificate,” as follows:

“Apprenticeship program” means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as required under 29 CFR Parts 29 and 30, as effective on February 7, 2024, including the requirement for a written apprenticeship agreement.

“Cancellation” means the termination of the registration or approval status of a program at the request of the sponsor or termination of an apprenticeship agreement at the request of the apprentice.

“Certification” or *“certificate”* means documentary evidence that at least one of the following has been met:

1. The Office of Apprenticeship has approved a set of National Guidelines for Apprenticeship Standards developed by a national committee or organization, joint or unilateral, or policy or guideline used by local affiliates, as conforming to the standards of apprenticeship set forth in 29 CFR Section 29.5, as effective on February 7, 2024;

2. A registration agency has established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program;

3. A registration agency has registered an apprenticeship program as evidenced by a certificate of registration or other written indicia;

4. A registration agency has determined that an apprenticeship has successfully met the requirements to receive an interim credential; or

5. A registration agency has determined that an individual has successfully completed an apprenticeship.

ITEM 6. Amend rule 281—21.42(260C) as follows:

281—21.42(260C) Apprenticeship programs. For an apprenticeship program to be offered by a community college or a local educational agency, the program must be approved by the U.S. Department of Labor, Office of Apprenticeship, and meet all requirements outlined in the National Apprenticeship Act, 29 U.S.C. §50, 29 CFR Parts 29 and 30, all as effective on February 7, 2024, or as specified in Iowa Code chapter 84D.

ITEM 7. Adopt the following **new** subrule 21.62(10):

21.62(10) Effective dates of federal law. All references to federal law in this rule are to those versions in effect on February 7, 2024.

ITEM 8. Amend subrule 41.1002(1) as follows:

281—41.1002(256B,34CFR300) Special education mediation conference.

41.1002(1) Procedures. The parent, the LEA or the AEA may request a special education mediation conference on any ~~decision relating to the identification, evaluation, educational placement, or the provision of FAPE without the need for filing a due process complaint~~ issue under this chapter. The mediation conference shall comply with rule 281—41.506(256B,34CFR300).

ITEM 9. Amend rule 281—41.1100(256B,34CFR300) as follows:

281—41.1100(256B,34CFR300) References to federal law. Unless otherwise specified, All all references in this chapter to the United States Code or to the Code of Federal Regulations are to

those provisions in effect on February 7, 2024.

ITEM 10. Amend subrule 43.11(1) as follows:

43.12(1) General. Except for insulin-dependent diabetics, an applicant for a school bus driver's authorization is to undergo a biennial physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners. The applicant will submit annually to the applicant's employer the signed medical examiner's certificate pursuant to Federal Motor Carrier Safety Administration regulations 49 CFR Sections 391.41 to 391.49, all as effective on February 7, 2024, indicating, among other requirements, sufficient physical capacity to operate the bus effectively and to render assistance to the passengers in case of illness or injury and freedom from any communicable disease. At the discretion of the chief administrator or designee of the employer or prospective employer, the chief administrator or designee shall evaluate the applicant's ability in operating a school bus, including all safety equipment, in providing assistance to passengers in evacuation of the school bus, and in performing other duties required of a school bus driver.

ITEM 11. Amend rule 281—44.1(285), introductory paragraph, as follows:

281—44.1(285) Requirements for manufacturers. In order to protect both the boards of education and manufacturers of school transportation vehicles and equipment from misunderstanding and confusion, all manufacturers shall provide equipment meeting all Iowa vehicle construction requirements described in this chapter as well as all federal statutes, regulations, industry standards, and technical documents incorporated in this chapter by reference that are in effect on February 7, 2024, an all applicable federal motor vehicle safety standards (FMVSS) that are in effect on February 7, 2024, which include the following:

ITEM 12. Amend paragraph **44.5(1)“c”** as follows:

c. Alteration of a vehicle, following manufacture by the OEM, is prohibited. This includes the addition or removal of seats and the addition of wheelchair lifts, wheelchair securement devices, and power lifts. ~~Ramps are allowed on the passenger side of the vehicle only and will comply with all applicable FMVSS and ADA requirements.~~ The following exceptions apply:

(1) OEM options or other manufacturer's accessories not in violation of these standards may be installed.

(2) Seats may be added or removed as long as the seating capacity does not exceed the capacity as certified by the OEM or on the label installed according to paragraph 44.5(1) "b."

(3) Wheelchair ramps are allowed to be added to the passenger side of the vehicle only and will comply with all applicable FMVSS and ADA requirements. When wheelchair ramps are added, the vehicle must also be equipped with the appropriate wheelchair securement system which must also meet all applicable FMVSS and ADA requirements.

ITEM 13. Amend subrule 98.2(7) as follows:

98.2(7) *Commingling prohibited.* Categorical funding shall not be commingled with other funding. All categorical funding will be accounted for separately from other funding. School districts and area education agencies will use a project code and program code as defined by Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as effective on February 7, 2024, as appropriate or required.

ITEM 14. Amend paragraph **98.62(3)"e"** as follows:

e. Transfer to a trust fund for other postemployment benefit (OPEB) cost or estimated cost calculated pursuant to Governmental Accounting Standards Board (GASB) Statement 45, as effective on February 7, 2024.

ITEM 15. Amend rule 281—98.65(257,279,298A,565), introductory paragraph, as follows:

281—98.66(257,279,298A,565) District support trust fund. The district support trust fund is used to account for moneys received in trust where those moneys, both principal and interest, are to benefit the school district. The school district or area education agency will not transfer its own resources to a district support trust fund. If the school district or area education agency has more than one district support trust, it will use locally assigned project codes pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as effective on February 7, 2024, to identify the different trusts in the same fund. The district support trust fund is not an irrevocable trust. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in the district support trust fund. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility as the trustee.

ITEM 16. Amend rule 281—98.70(279,280,298A), introductory paragraph, as follows:

281—98.70(279,280,298A) Student activity fund. The student activity fund must be established in any school district receiving moneys from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys collected through school activities are public funds that are the property of the school district and are under the financial control of the school board. Upon dissolution of an activity, such as a graduating class or student club, the surplus must be used to support other student activities in the student activity fund. Prudent and proper accounting of all

receipts and expenditures in these accounts is the responsibility of the board secretary pursuant to Iowa Code section 291.6. School districts may maintain subsidiary records for student activities if those records are reconciled to the official records on a monthly basis; however, all official accounting records of the student activity fund shall be maintained within the school district's chart of account pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies.