

Iowa State Board of Education

Executive Summary

June 20, 2024



- Agenda Item:** Rules – Chapters 19 (Rescind and adopt) and 68 (Rescind): Charter Schools (Notice)
- State Board Priority:** Promote equity in education by closing achievement and opportunity gaps.
- State Board Role/Authority:** The State Board has the authority to make administrative rules regarding charter schools.
- Presenter(s):** Thomas A. Mayes, General Counsel
- Attachment(s):** One
- Recommendation:** It is recommended that the State Board give notice of its intent to rescind and replace chapter 19 and rescind chapter 68.
- Background:** The State Board had previously given its notice of intended action. Due to the nature of the public comment, the Department allowed the notice to expire, provided detailed responses to the public comment, addressed some additional unnecessary rule language, and addressed some changes required by the 2024 legislative session. Those items are set out in greater detail in the preamble to the notice of intended action.

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rulemaking related to charter schools and providing an opportunity for public comment

The State Board of Education hereby proposes to rescind Chapter 19, “Charter Schools,” and adopt a new chapter with the same title, and to rescind Chapter 68, “Iowa Public Charter and Innovation Zone Schools,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 256E and 256F.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 256E and 256F.

Purpose and Summary

As part of the Department’s review of rules under Executive Order 10, the Department determined that several of the rules in both Chapters 19 and 68 recite statutory text, are obsolete, or are aspirational in nature. Because Chapter 68 will only apply to two legacy charter schools and none in the future, the Department proposes consolidating these two chapters into one for monitoring purposes. This matter was originally published in the Iowa Administrative Bulletin as ARC 7092C, on October 4, 2023. The period of public comment closed on October 24, 2023.

Based on the nature of the public comment received, the Department decided to allow ARC 7092C to expire and to provide a new notice of intended action to receive public comment on additional proposed changes.

The Department received several public comments from individuals affiliated with a particular charter school. The Department also received oral comment and written comment from an organization that provides support to and advocacy for Iowa’s public charter schools. Those comments, and the Department’s response, are provided below.

Proposed Subrule 19.5(5): Application Timelines. Because of the tight timeline to review charter school applications, one commenter proposed a second application window. The Department is unable to do so at this time based on the underlying statutory language. The Department deleted an unnecessary reference to school years from this subrule.

New Proposed Subrule 19.5(6): Sample Applications and Contracts. Based on feedback in the most recent application cycles, both from applicants and the State Board, a new subrule is proposed that would authorize either the Department or the State Board to prepare sample or template applications or contracts for the convenience of the applicants, which applicants would be encouraged to use.

Proposed Paragraph 19.11(2) “a”: Payment to Charter Schools. Several commenters requested that the initial payment to a charter school in the first year be based on enrollment on September 1, rather than enrollment on August 5. No change in proposed rule is made. The August deadline is designed to ensure that each new charter school receives some funding in its first month of operation. Delaying the estimates to September will delay the initial payment that a new charter school would receive. Note that payment amounts are reconciled throughout the school year.

Proposed Subrule 19.11(3): Eligibility for Federal Funding. Several commenters requested that

the specific federal funds for which charter schools are eligible be codified or the reference be eliminated, based on inconsistent information a particular charter school received during its first year of operation. In this notice of intended action, the Department will remove the subrule and renumber accordingly any reference to available federal funds, as this funding eligibility is entirely based on federal law. The subrule adds no value.

Proposed Subrule 19.11(4): Notifications to Districts of Residence. Several commenters requested that the reporting to districts of residence be only for new students, and not every student for every year. The commenters state that the Department already has access to this information and it is unduly burdensome. Preparing a student count, by its nature is burdensome for any entity involved and it is important to both charter schools and districts of residence that certified enrollment counts be accurate. Furthermore, the Department does not submit counts; districts do. No change is made; however, the subrule is renumbered because the preceding subrule is removed.

New Proposed Subrule 19.11(4): Activities Participation. This new subrule incorporates a new statutory provision contained in 2024 Iowa Acts, House File 2368, regarding activities participation for students in virtual charter schools in their districts of residence.

Proposed Rule 19.14: Annual Report. Several commenters requested that the annual report to be filed with the Department be filed with the State Board instead. No change is made, as this is a statutory requirement.

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 written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on August 13, 2024. Comments should be directed to:

Thomas A. Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

August 13, 2024

Grimes State Office Building, Room B-50

9:00 to 10 a.m.

Des Moines, IA

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

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 is proposed:

ITEM 1. Rescind 281—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
CHARTER SCHOOLS

281—19.1(256E) General. All charter schools in Iowa are a part of the state's program of public education. Charter schools established on or after July 1, 2021, are subject to Iowa Code chapter 256E and Division I of this chapter. Charter schools established prior to July 1, 2021, continue to operate under and are subject to the provisions of Iowa Code chapter 256F and Division II of this chapter. The department monitors the effectiveness of charter schools and implements the applicable provisions of this chapter.

DIVISION I
CHARTER SCHOOLS ESTABLISHED ON OR AFTER JULY 1, 2021

281—19.2(256E) Establishment of charter schools. A charter school may be established by either of the following methods: a school board-state board model, pursuant to Iowa Code section 256E.4, or a founding group-state board model, pursuant to Iowa Code section 256E.5. The state board of education is the only authorizer of charter schools under this division.

281—19.3(256E) Purpose of a charter school. A charter school established under this division must intend to accomplish one or more of the purposes set forth in Iowa Code section 256E.1(3).

281—19.4(256E) Definitions. The definitions set forth in Iowa Code section 256E.2 apply to this division. In addition, "parent" includes a child's biological or adoptive parent, as well as anyone authorized by state or federal law or court order, judgment, or decree to make educational decisions for the child.

281—19.5(256E) General application provisions. The following general application provisions apply to both the school board-state board and founding group-state board charter establishment models.

19.5(1) Instructions. The instructions for completing an application includes or otherwise informs applicants of the content listed in Iowa Code sections 256E.4(3) and 256E.5(3).

19.5(2) Review. In reviewing and evaluating charter school applications, the state board employs procedures, practices, and criteria consistent with nationally recognized principles and standards for reviewing charter school applications. Each application review includes:

- a. A thorough evaluation of the written application.
- b. An in-person interview with the founding group.

c. An opportunity in a public forum for local residents to learn about and provide input on each application.

19.5(3) State board actions following review. Following review of a charter school application and completion of the process under subrule 19.5(2), the state board does all of the following:

a. Approves a charter school application only if the founding group has demonstrated competence in each element of the approval criteria and if the founding group is likely to open and operate a successful charter school.

b. Makes application decisions on documented evidence collected through the application review process.

c. Adheres to the policies and criteria that are transparent, are based on merit, and avoid conflicts of interest or any appearance thereof.

19.5(4) Application approval. The state board approves a charter school application if the application satisfies this division.

a. The state board will approve or deny a charter school application no later than 75 calendar days after the application is received.

b. If the state board denies an application, the state board will provide notice of denial to the founding group in writing within 30 days after the state board's action, specifying the exact reasons for denial and provide documentation supporting those reasons.

c. An approval decision may include, if appropriate, reasonable conditions that the founding group meet before a charter school contract may be executed pursuant to Iowa Code section 256E.6.

d. An approved charter application does not serve as a charter school contract.

e. A decision of the state board relating to an application under this rule is not appealable.

f. An unsuccessful applicant under this rule may subsequently reapply to the state board.

19.5(5) Application deadlines and timelines. ~~For school years on or after the school year beginning on July 1, 2023,~~ Applications submitted to the state board on or before November 1 of the preceding school year will be considered for approval for the establishment of the charter school for the next school year.

19.5(6) Sample applications and contracts. The Department or the State Board may prepare sample or template applications and contracts for the convenience of future applicants. Use of these samples or templates is encouraged.

281—19.6(256E) School board-state board model. Iowa Code section 256E.4 governs charter schools founded under this model.

19.6(1) School board-state board model application. An application submitted under this rule includes all of the items related to the proposed charter school that are set forth in Iowa Code section 256E.4(4).

19.6(2) Conversion of existing attendance center. If the founding group proposes to establish a charter school by converting an existing attendance center of the school district, Iowa Code section 256E.4(5) governs such proposal.

281—19.7(256E) Founding group-state board model. Iowa Code section 256E.5 governs charter schools founded under this model. An application submitted under this rule includes all of the items related to the proposed charter school that are set forth in Iowa Code section 256E.5(4).

281—19.8(256E) Charter school contract. Iowa Code section 256E.6 governs contracts with approved charter schools. A contract may be amended by the founding group and the state board after the founding group complies with subrule 19.5(2) with reference to the proposed amendment.

281—19.9(256E) Performance framework. The performance provisions within each charter school's contract are governed by Iowa Code section 256E.9. This framework includes the items in Iowa Code section 256E.9(1), including student academic growth and proficiency in English language arts on statewide outcome assessments, student academic growth and proficiency in mathematics on statewide

outcome assessments, and conditions for learning data (as mandated by Iowa’s state plan under the Every Student Succeeds Act).

281—19.10(256E) General operating powers and duties. In order to fulfill the charter school’s public purpose, a charter school established under this division is organized as a nonprofit education organization. It has the powers, duties, and exemptions specified in Iowa Code section 256E.7. For purposes of “applicable federal, state, and local health and safety requirements,” that term includes mandatory reporting of child abuse under Iowa Code section 232.69, investigation of abuse by school employees under 281—Chapter 102, and seclusion and restraint under 281—Chapter 103.

281—19.11(256E) Funding.

19.11(1) General. Charter school funding is governed by Iowa Code section 256E.8.

19.11(2) Enrollment estimates. If necessary, and pursuant to paragraph 19.11(2)“a,” funding amounts determined under this rule for the first school year of a new charter school are to be based on enrollment estimates for the charter school included in the charter school contract. The process set out in paragraph 19.11(2)“b” is to be used for determining estimated enrollments for charter school funding purposes in school years after the first year of a charter school. Amounts paid using estimated enrollments are to be reconciled during subsequent payments based on actual enrollment of the charter school during each school year pursuant to paragraph 19.11(2)“c.”

a. Enrollment estimates for the first school year are to be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

b. Enrollment estimates for school years following the first school year are to be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

c. Estimated payments will be reconciled, at minimum, based on actual enrollment information reported by the charter school pursuant to Iowa Code sections 256.9(44) and 257.6.

19.11(3) Notification to districts of residence. For purposes of this rule, each charter school notifies the district of residence of each child in a time and manner that allow the district of residence to include the child in the district’s certified enrollment and any other relevant enrollment data.

19.11(4) Students receiving instruction over the internet — participation in activities in district of residence. Students receiving instruction over the internet from a charter school authorized under this chapter are eligible to participate in activities in their resident districts under the terms of Iowa Code section 256E.13.

281—19.12(256E) Oversight—corrective action—contract renewal—revocation.

19.12(1) General. The state board’s monitoring, oversight, remedial actions, and enforcement actions (up to and including revocation) are governed by Iowa Code section 256E.10.

19.12(2) Renewal guidance. The state board’s renewal application guidance will, at a minimum, include the criteria that will be used when assessing charter school contract renewal decisions and provide an opportunity for the charter school to:

a. Present additional evidence beyond the data contained in the performance report.

b. Describe improvements undertaken or planned for the charter school.

c. Describe the charter school’s plans, including any proposed modifications, for the next charter school contract term.

19.12(3) Revocation or nonrenewal.

a. A charter school contract may be revoked at any time or not renewed if the state board determines that the charter school did any of the following:

(1) Committed a material violation of any of the terms, conditions, standards, or procedures under the charter school contract or this division.

(2) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter school contract.

(3) Failed to meet generally accepted standards of fiscal management.

- (4) Violated a provision of law from which the charter school was not exempted.
- b. A decision to revoke or to not renew a charter school contract may only be by resolution of the state board and is to clearly state the reasons for the revocation or nonrenewal.

19.12(4) Contract revocation and nonrenewal standards and procedures. The state board will develop charter school contract revocation and nonrenewal standards and procedures that do all of the following:

- a. Provide the charter school with a timely notice of the possibility of revocation or nonrenewal and of the reasons therefor.
- b. Allow the charter school a reasonable period of time in which to prepare a response to any notice received.
- c. Provide the charter school an opportunity to submit documents and give testimony challenging the decision to revoke the charter school contract or the decision to not renew the contract.
- d. Allow the charter school the opportunity to hire legal representation and to call witnesses.
- e. Permit the audio or video recording of such proceedings described in paragraphs 19.12(4) “c” and “d.”
- f. Require a final decision to be conveyed in writing to the charter school.

281—19.13(256E) Procedures for charter school closure—student enrollment. Charter school closures are governed by Iowa Code section 256E.11. Prior to any charter school closure decision, the state board develops a charter school closure protocol to ensure timely notice to parents and guardians, provide for the orderly transition of students and student records to new schools, and provide proper disposition of school funds, property, and assets in accordance with this division. The protocol specifies necessary actions and timelines and identifies responsible parties for each such action.

281—19.14(256E) Reports.

19.14(1) Annual report. Each charter school prepares and files an annual report with the department, on or before October 1 and including data from the prior school year, pursuant to Iowa Code section 256E.12(1) that includes:

- a. The charter school’s mission statement, including a vision statement and goals, as well as data measuring goal attainment.
- b. Student demographics, disaggregated by grade level and protected characteristics.
- c. Attendance statistics and dropout rate (average daily attendance, dropout rate, student mobility).
- d. Graduation data, including four-year and five-year graduation rates, credit accrual, and number of students on track for graduation.
- e. Student achievement, including annual academic growth and proficiency, including Iowa statewide assessment of student progress (ISASP) data, other assessment data, and aggregate assessment test scores.
- f. Financial performance, including projections of financial stability.
- g. The number and qualifications of teachers and administrators.
- h. Sustainability data, including enrollment trends, staff satisfaction, and parent and student satisfaction.

19.14(2) Annual financial report. Each charter school submits a Certified Annual Report consistent with 281—Chapter 99. The annual financial report is due to the department by September 15.

19.14(3) Report to general assembly. The state board will prepare and file a report with the general assembly annually by December 1 as required by Iowa Code 256E.12(2).

281—19.15(256E) Operation of existing charter schools. Charter schools established pursuant to Iowa Code chapter 256F continue to operate pursuant to that chapter and are not subject to the requirements of this division or Iowa Code chapter 256E.

These rules are intended to implement Iowa Code chapter 256E.

DIVISION II
CHARTER SCHOOLS ESTABLISHED BEFORE JULY 1, 2021

281—19.16(256F) Definitions. The definitions in Iowa Code section 256F.2 apply to this division. In addition, “advisory council” means a council appointed by the school board of a charter school. With respect to a charter school, no more than one member of the council may be a member of the school board; a district’s school improvement advisory committee may also serve as its advisory council. All advisory councils are subject to the provisions of Iowa Code chapters 21 and 22.

“Family unit” means a household in which resides one or more students enrolled at the existing public school that is the subject of a charter school application.

281—19.17(256F) Operating requirements. Charter schools are governed by Iowa Code sections 256F.4(2) through (8), 256F.6, and 256F.7.

281—19.18(256F) Ongoing review by the department. The department periodically reviews each charter school to ensure continuing compliance with the charter school’s contract. The department may schedule mandatory meetings with the administrators of all charter schools at the department’s sole discretion. Iowa Code section 256F.10 governs necessary reports under this division.

281—19.19(256F) Renewal of charter. The school board that established the charter school, in the absence of revoking the charter pursuant to rule 281—19.20(256F), takes affirmative action to renew a charter school contract after the initial four-year contract for a charter school and at the end of each renewal period. The school board shall hold a public hearing on the issue of renewal and submit to the department a copy of the minutes of the public hearing showing that a majority of the school board members voted in favor of renewal of the charter. Any action to renew a charter specifies the number of years, which may only be four years or less, for which the charter was renewed by the school board.

A school board will submit a new application to the department if the board modifies any of the terms of the original charter.

281—19.20(256F) Revocation or nonrenewal of charter. Iowa Code sections 256F.8 and 256F.9 govern revocation or nonrenewal of a charter under this division.

281—19.21(256F) Transition—operation of existing charter schools. Charter schools established pursuant to this division and Iowa Code chapter 256F prior to July 1, 2021, may continue to operate pursuant to those terms and are not subject to Iowa Code chapter 256E or Division I of this chapter. No new charter or innovation zone school may be created under this division.

These rules are intended to implement Iowa Code chapter 256F.

ITEM 2. Rescind and reserve **281—Chapter 68.**