

Iowa State Board of Education

Executive Summary

September 14, 2023



Agenda Item: Rules: 281 IAC Chapter 16 – Preschool (Notice of Intended Action)

State Board Priority: Eliminating Achievement and Opportunity Gaps

State Board Role/Authority: This rule making is proposed under the authority provided by Iowa Code section 256C.2.

Presenter(s): Thomas A. Mayes, General Counsel
Kimberly Villotti, Bureau Chief

Attachment(s): One

Recommendation: It is recommended that the State Board give notice of its intent to amend Chapter 16.

Background: As part of the Department's review of rules under Executive Order 10, the Department identified several rules that recite statutory text, are obsolete, or are aspirational in nature. They have been removed in this proposal.

EDUCATION DEPARTMENT[281]

Notice of Intended Action

The State Board of Education hereby proposes to amend Chapter 16, “Statewide Voluntary Preschool Program,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 256C.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 256C.

Purpose and Summary

As part of the Department’s review of rules under Executive Order 10, the Department identified several rules that recite statutory text, are obsolete, or are aspirational in nature. They have been removed in this proposal.

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 October 24, 2023. Comments should be directed to:

Thomas A. Mayes

Grimes State Office Building; 400 E. 14th Street, Des Moines, IA 50319

Thomas.Mayes@iowa.gov or 515-281-8661

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows on the following two dates:

Hearing 1: October 24, 2023, 9:30 to 10:00 a.m.; Grimes State Office Building, State Board Room, Second Floor, Des Moines.

Hearing 2: October 24, 2023, 5:00 to 5:30, Des Moines, LOCATION TBA.

Persons who wish to make oral comments at the 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 the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Education and advise of specific needs.

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 rule-making action is proposed:

ITEM 1. Rescind 281—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
STATEWIDE VOLUNTARY PRESCHOOL PROGRAM

281—16.1(256C) Definitions.

“Applicant” means a school district applying to become an approved local program.

Only public school districts in Iowa may apply for state funds under this chapter.

“Approved local program” means the same as defined in Iowa Code section 256C.1.

“Assessment” means a systematic ongoing procedure for obtaining information from observations, interviews, portfolios, and tests that can be used to make judgments about the strengths and needs of individual children and plan appropriate instruction.

“Comprehensive services” means the provision of quality, developmentally appropriate early learning experiences consistent with age-relevant abilities or milestones; extended day child care services; developmental screenings, including health, hearing, and vision screenings; transportation; and family education and support services.

“Curriculum” means a research-based or evidence-based written framework that is comprehensive, addresses the needs of the whole child, and provides a guide for decision making about content, instructional methods, and assessment.

“Department” means the same as defined in Iowa Code section 256C.1.

“Developmentally appropriate” means practices that are based upon knowledge of how children develop and learn and that are responsive to the individual child’s learning strengths,

interests, and needs.

“Director” means the same as defined in Iowa Code section 256C.1.

“Eligible child” means the same as defined in Iowa Code section 256C.3(1).

“Family education and support” means any developmentally appropriate activity or information, provided either formally or informally to parents, that supports the success of children and their families to reach desired results.

“Para-educator” means a certified educational assistant as defined in Iowa Code section 272.1(6) and licensed under 282—Chapter 22.

“Prekindergarten program” means an education program offered by a school district or by an accredited nonpublic school as defined in 281—Chapter 12.

“Preschool budget enrollment” means the same as defined in Iowa Code section 256C.5.

“Preschool foundation aid” means the same as defined in Iowa Code section 256C.5.

“Preschool program” means the statewide voluntary preschool program for four-year-old children created in Iowa Code chapter 256C.

“Program standards” means the expectations for the characteristics or quality of early childhood settings, centers, and schools approved by the department. Approved program standards include National Association for the Education of Young Children (NAEYC) Program Standards and Accreditation Criteria, Head Start Program Performance Standards, the Iowa Quality Preschool Program Standards (QPPS) and Criteria, or other approved program standards as determined by the department.

“School district” means the same as defined in Iowa Code section 257.2.

“Staff member” means an individual who implements preschool activities under the direct supervision of a teacher. Staff members include para-educators, teacher aides and

teacher associates. All staff members are to meet the program standards defined herein.

“*Teacher*” means an individual who holds a valid practitioner’s license issued by the board of educational examiners under Iowa Code chapter 272 and holds an endorsement from the board of educational examiners that includes prekindergarten or kindergarten. There is no obligation that the teacher be an employee of the applicant district; the teacher may be employed by a private provider or other public agency with which the district has entered into an agreement or contract under Iowa Code chapter 28E.

281—16.2(256C) Preschool program standards. Approved program standards include Head Start Program Performance Standards, Iowa Quality Preschool Program Standards and Criteria, or the National Association for the Education of Young Children Program Standards and Accreditation Criteria. All approved local preschool programs adopt preschool program standards and meet the following criteria:

16.2(1) *Personnel.* A minimum of one teacher is present with eligible children during the voluntary preschool program instructional time.

16.2(2) *Ratio of staff to children.* At least one teacher is present in a classroom during the instructional time described in subrule 16.2(4). A minimum of one staff member and one teacher are present when 11 to 20 children are present. Staff members and teachers have reasonable line-of-sight supervision of all children.

16.2(3) *Maximum class size.* There are no more than 20 children per classroom.

16.2(4) *Instructional time.* Eligible children receive instructional time as established by Iowa Code section 256C.3(3) “*f*” that meets the needs of the child and is directly related to the program’s curriculum, such time to be exclusive of recess.

16.2(5) *Child learning standards.* The preschool program demonstrates how the

curriculum, assessment, staff development, and instructional strategies are aligned to the Iowa Early Learning Standards. The teacher provides instruction on the skills and knowledge included in the Iowa Early Learning Standards.

16.2(6) Curriculum. The preschool program adopts a research-based or evidence-based curriculum.

16.2(7) Assessment. The preschool program adopts a research-based or evidence-based assessment to provide information on children's learning and development.

16.2(8) Staff development. The school district complies with Iowa Code section 256C.3(4) "d." The district makes available to any teacher of a statewide voluntary preschool program who is not employed by the district staff development that the district offers to the district's personnel to maintain the skills appropriate to the teacher's role. The school district ensures that staff members for the program are provided appropriate staff development in early childhood education.

16.2(9) Space. The preschool program provides adequate and appropriate space and facilities in accordance with program standards.

16.2(10) Materials. The preschool program provides instructional materials and supplies consistent with the program standards and Iowa Early Learning Standards.

16.2(11) Meals. The preschool program provides adequate and appropriate meals or snacks in accordance with program standards.

16.2(12) Parent involvement. The preschool program involves families through at least one home visit by the licensed teacher of the child, one family night, and at least two family-teacher conferences per year. Family involvement may include volunteering in the classroom, orientation to the preschool program, parent education, general communications,

or other activities.

16.2(13) *Integration of other preschool programs.* The preschool program complies with Iowa Code section 256C.3(3)“d.”

16.2(14) *Comprehensive services.* The preschool program may collaborate with other agencies for the provision of the following:

- Quality, developmentally appropriate early learning experiences;
 - Extended day child care;
 - Transportation;
 - Developmental screening, including health, hearing, and vision screening;
 - Referral to other agencies providing health insurance, health care, immunizations, nutrition services, and mental health and oral health services; and
- Family education and support.

281—16.3(256C) Collaboration.

16.3(1) *Teachers.* The teacher complies with Iowa Code section 256C.3(2)“b.”

16.3(2) *Programs.* The program complies with Iowa Code section 256C.3(3)“e.” In doing so, the program makes available resources, including those described in subrule 16.2(14), necessary to meet the needs of the child. Preschool programs collaborate to ensure that children receiving care from other approved child care arrangements can participate in the voluntary preschool program with minimal disruptions to the child.

16.3(3) *Districts.* The school district complies with Iowa Code sections 256C.3(4)“a” and “b.”

281—16.4(256C) Applications for funding. All applications are submitted in a manner

directed by the department; address the standards found in rules 281—16.2(256C), 281—16.3(256C), and 281—16.9(256C); and contain a plan describing how they will fully meet the program standards within one year of the funding award. Points are awarded based on the applicant's provision of the following information:

- Preschool program summary;
- Research documentation;
- Identification and documentation of local population;
- Needs assessment of local programs providing services;
- Evidence of collaboration with local agencies to provide comprehensive services; and
- Letters of community support.

281—16.5(256C) Application process.

16.5(1) Request for applications.

- The department announces the commencement of the application period through public notice on the department's website and the department's relevant regular electronic publications.
- Applications for preschool program funding are available on the department's website and otherwise distributed by the department upon request.
- All applications are to be submitted to the department in accordance with instructions accompanying the applications.

16.5(2) Application process.

- a. Applications that do not contain the specified information or that are not received by the specified date will not be considered.
- b. The department has the final discretion to award funds.

16.5(3) Notification of applicants. The department notifies all applicants within 45 days following the due date for receipt of applications whether their requests are funded. The department is to provide to each successful applicant a contract to be signed by an official with authority to bind the applicant and to be returned to the department prior to the distribution of any funds under this program.

281—16.6(256C) Removal of approval.

16.6(1) Removal by agreement. The contract may be terminated in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the future expenditure of funds. The parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The applicant does not incur new obligations for the terminated portion after the effective date and will cancel as many outstanding obligations as possible.

16.6(2) Department removal for cause. The department may remove approval in whole or in part at any time before the date of completion whenever it is determined by the department that the applicant has failed to comply substantially with the conditions of the contract. The applicant will be notified in writing by the department of the reasons for the removal of approval and the effective date. The applicant does not incur new obligations for the portion for which approval is removed after the effective date of removal and will cancel as many outstanding obligations as possible.

The department may remove approval in whole or in part by June 30 of the current fiscal year in the event that the applicant has not attained the program standards.

16.6(3) Responsibility of applicant after removal of approval. Within 45 days of the

removal of approval, the applicant will supply the department with a financial statement detailing all costs incurred up to the effective date of the removal. If the applicant expends moneys for other than specified budget items approved by the department, the applicant will return moneys for unapproved expenditures.

281—16.7(256C) Appeal of application denial, termination, or removal of approval. Any applicant may appeal to the director of the department the denial of a properly submitted preschool program funding application or the unilateral termination or removal of an approval. The jurisdictional criteria and procedures found in 281—Chapter 7 apply to any appeal of denial.

281—16.8(256C) Finance.

16.8(1) *General.* The department implements Iowa Code sections 256C.4 and 256C.5.

16.8(2) *Aid payments.* Preschool foundation aid is paid as part of the state aid payments made to school districts in accordance with Iowa Code section 257.16, except that it is not necessary that an eligible child be a resident of the district in which the child is enrolled voluntarily in the approved local program.

16.8(3) *Separate accounting.* All state funding received under this program is accounted for by the applicant district separately from other state aid payments.

16.8(4) *Restriction on supplanting.* State funding received under this program is used to supplement, not supplant, other public funding received by the applicant district as the result of the participation of any eligible children in other state or federal funded preschool programs. This restriction is applicable only for costs related to instructional time as described in subrule 16.2(4).

16.8(5) *Transportation.* Children participating in preschool in an approved local

program under Iowa Code chapter 256C may be provided transportation services. However, transportation services provided to such children are not eligible for reimbursement under this chapter.

16.8(6) *Open enrollment not applicable.* Iowa’s open enrollment statute (Iowa Code section 282.18) is not applicable for the parent or guardian of an eligible child who desires to access an approved program in a school district not of the child’s residence. Approved programs are open to all eligible Iowa children, regardless of a child’s district of residence. Accordingly, it is neither necessary for a parent or guardian to file an open enrollment application, nor will open enrollment applications for approved preschool programs be allowed. Participation in an approved program in a school district not of the child’s residence does not create an entitlement to continuous open enrollment under Iowa Code section 282.18.

281—16.9(256C) Accountability. An approved local program meets the minimum program specifications in this chapter. The department encourages approved local programs to exceed the minimum standards as programs work toward ongoing improvement. The Department monitors each local program’s compliance with this rule.

16.9(1) *Annual reports.* Each approved local program provides, on forms provided by the department, an annual report to the department regarding program specifications. Failure to submit an annual report by the date specified therein results in suspension of financial payments to the applicant until such time as the report is received by the department.

16.9(2) *Performance measures.* The approved local program collects data on all of the following:

- (1) The number of eligible children participating in the preschool program.

(2) The number of eligible children participating in a program that meets the criteria of NAEYC, Head Start, or QPPS Standards and Criteria.

(3) The curriculum.

(4) The assessment as defined in rule 281—16.2(256C).

(5) The number of teachers.

(6) The kindergarten literacy assessment as defined in Iowa Code section 279.60.

16.9(3) *Noncompliance with program specifications.* If the department determines that a participating district does not meet one or more of the accountability specifications provided in rule 281—16.2(256C), the department informs the school district of appropriate actions to be taken by the school district. The school district submits an action plan that is approved by the department and contains reasonable timelines for coming into compliance. The department will facilitate technical assistance when requested. If the department determines that the school district is not taking the necessary actions in a timely manner, the director removes approval and terminates the school district's contract as provided in subrule 16.6(2). Until such time as the school district's contract is terminated, the school district may continue to participate in the statewide voluntary preschool program.

16.9(4) *Monitoring.* The department develops a monitoring system based on the annual reporting and performance measures described in this rule to be implemented no later than one year after funding is first provided under this chapter. The monitoring system ensures that programs meet the provisions herein requiring a properly licensed teacher and adoption of program standards and is designed to follow the academic progress of children who voluntarily participate in the statewide preschool program as the children progress through elementary and secondary grade levels. If feasible, it is the intent of the department to

include postsecondary monitoring of such children.

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