

# Iowa State Board of Education

## Executive Summary

September 14, 2023



**Agenda Item:** Rules: 281 IAC Chapter 59 – Gifted and Talented Programming (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 257.42(4).

**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 Chapter 59.

**Background:** As part of the Department’s review of rules under Executive Order 10, the Department proposes eliminating several instances where statutory text was reproduced verbatim, reducing a large number of restrictive terms, resequencing and consolidating certain subrules to improve readability. The Department proposes removing certain language from the staff qualifications subrule (the reference to what a program teacher-coordinator is entitled to do) because that matter is within the jurisdiction of the Board of Educational Examiners.

## EDUCATION DEPARTMENT[281]

### Notice of Intended Action

The State Board of Education hereby proposes to amend Chapter 59, “Gifted and Talented Programs,” Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 257.42(4).

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 257.42 through 257.49.

#### *Purpose and Summary*

As part of the Department’s review of rules under Executive Order 10, the Department proposes eliminating several instances where statutory text was reproduced verbatim, reducing a large number of restrictive terms, resequencing and consolidating certain subrules to improve readability. The Department proposes removing certain language from the staff qualifications subrule (the reference to what a program teacher-coordinator is entitled to do) because that matter is within the jurisdiction of the Board of Educational Examiners.

#### *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. 14<sup>th</sup> Street, Des Moines, IA 50319

[Thomas.Mayes@iowa.gov](mailto: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 59 and adopt the following **new** chapter in lieu thereof:

CHAPTER 59  
GIFTED AND TALENTED PROGRAMS

**281—59.1(257) General principles.** Gifted and talented programs shall be provided by a school district and may be made available to eligible students as a cooperative effort between school districts or through cooperative arrangements between school districts and other educational agencies. It is the responsibility of school districts to ensure that the programs comply with state statute and this chapter.

**281—59.2(257) Definitions.** For the purposes of this chapter, the following definitions apply.

*“Department”* means the department of education.

*“Gifted and talented children”* means the same as defined in Iowa Code section 257.44. For purposes of that section, the following definitions apply.

1. “Creative thinking” refers to students who have advanced insight, outstanding imagination and innovative reasoning ability. Such students possess outstanding ability to integrate seemingly unrelated information in formulating unique ideas, insights, solutions, or products.
2. “General intellectual ability” refers to students who can learn at a faster pace,

master higher levels of content and handle abstract concepts at a significantly higher level than expected, given the student’s chronological age and experiences.

3. “Leadership ability” refers to those students who possess outstanding potential or demonstrated ability to exercise influence on decision making. These students may be consistently recognized by their peers, may demonstrate leadership behavior through school and nonschool activities or may evidence personal skills and abilities that are characteristic of effective leaders.

4. “Specific ability aptitude” refers to those students who have exceptionally high achievement or potential and a high degree of interest in a specific field of study.

5. “Visual or performing arts ability” refers to students who demonstrate or indicate potential for outstanding aesthetic production or creativity in areas such as art, dance, music, drama, and media production.

*“Program budget”* is a budget consisting of a listing of the estimated direct program expenditures, by function and object, that are necessary to accomplish the goals of the program in meeting the needs of identified students, along with a listing of the sources of revenue and, if necessary, the amounts of fund balance to be applied.

**281—59.3(257) Program plan.** The program plan submitted by school districts will include the elements set forth in Iowa Code section 257.43.

**281—59.4(257) Responsibilities of school districts.** A school district’s program under this chapter shall meet the following criteria.

**59.4(1) Development of goals and objectives.** A school district will establish goals and objectives for the following:

- a. Curriculum and instructional strategies.

- b. Student outcomes.
- c. Program management and administration.
- d. Program development.

**59.4(2) *Development of curriculum and instructional strategies.*** The program of instruction will consist of content and teaching strategies that reflect the accelerative pace, intellectual processes and creative abilities that characterize gifted and talented students. A linkage among the selection of students, the anticipated student outcomes and the special instructional programs will be evident. Learning activities will provide for the development of skills that are beyond the scope of the regular classroom, introduce advanced concepts and contents, and offer students a greater latitude of inquiry than would be possible without the specialized instructional program.

Specialized instructional activities are those not ordinarily found in the regular school program and may include the following:

- a. A special curriculum supplementing the regular curriculum, using a high level of cognitive and affective concepts and processes.
- b. Flexible instructional arrangements, such as special classes, seminars, resource rooms, independent study, student internships, mentorships, research field trips, and research centers.

**59.4(3) *Student enrollment.*** Students will be involved in a gifted and talented program for a sufficient portion of the regularly scheduled school time to ensure that projected student outcomes are likely to be achieved.

**59.4(4) *Personalized education plan.*** Best practice dictates that the services provided for each student placed in a gifted and talented program be contained in a written,

personalized gifted and talented plan. Personalized education plans should be in writing and reviewed at periodic intervals in accordance with the changing needs of the student. The following items are suggested for inclusion in a student's personalized education plan, but this is neither a mandatory nor an exhaustive list:

*a.* Relevant background data, assessment of present needs and projections for future needs. Relevant information may include the student's leadership ability, interest inventories, learning characteristics, and learning goals.

*b.* The nature and extent of the gifted and talented services provided to the student, including indirect services, such as consultative services or other supportive assistance provided to a regular classroom teacher. Other services may include modifications to curriculum and acceleration of the student's curriculum.

*c.* Personnel responsible for the services provided to the student, as well as those responsible for monitoring and evaluating the student's progress.

**59.4(5)** *Student identification criteria and procedures.* Students will be placed in a gifted and talented program in accordance with systematic and uniform identification procedures that encompass all grade levels and that are characterized by the following:

*a.* Identification will be for the purpose of determining the appropriateness of placement in a gifted and talented program, rather than for categorically labeling a student.

*b.* The decision to provide a student with a gifted and talented program will be based on a comprehensive appraisal of the student, consideration of the nature of the available gifted and talented program and an assessment of actual and potential opportunities within the student's regular school program.

*c.* Multiple criteria will be used in identifying a student, with no single criteria

eliminating a student from participation. Criteria will combine subjective and objective data, including data with direct relevance to program goals, objectives and activities.

*d.* In the event that the number of eligible students exceeds the available openings, participants will be selected according to the extent to which they can benefit from the program.

*e.* Each identified student's progress will be reviewed at least annually to consider modifications in program or student placement.

**59.4(6) *Evaluation.*** The school district will give attention to the following in its evaluation design:

*a.* Evaluation of gifted and talented programs will be for the purpose of measuring program effects and providing information for program improvement.

*b.* Evaluation should be conducted for each program level where objectives have been established.

*c.* Both cognitive and affective components of student development should be evaluated.

*d.* Evaluation findings should report results based on actual accomplishments by the gifted and talented students or their teachers, which are a direct result of the project, program, or activity.

**59.4(7) *Staff utilization plan.*** Staff will be deployed to ensure quality gifted and talented programs by employing the following procedures:

*a.* A designated staff person will be responsible for the overall program coordination throughout the school district.

*b.* The teaching staff of the gifted and talented program should work with the regular classroom teachers to assess, plan, carry out instruction, and evaluate outcomes.



c. Coordination time will be made available to staff providing gifted and talented programs to allow staff to perform professional responsibilities.

**59.4(8) *Staff professional development.*** Periodic professional development will be offered for all classroom teachers to maintain and update understandings and skills about individualizing programs for identified gifted and talented students. A staff development plan for personnel responsible for gifted and talented programs will be provided and will be based upon the assessed needs of the gifted and talented instructional and supervisory personnel.

**59.4(9) *Qualifications of personnel.*** Instructional personnel providing programs for gifted and talented students should have preservice or in-service preparation in gifted and talented education that is commensurate with the extent of their involvement in the gifted and talented program. The gifted and talented program teacher-coordinator will hold an endorsement allowing the holder to serve as a teacher or a coordinator of programs for the gifted and talented from the prekindergarten level through grade 12.

**59.4(10) *Fiscal and accountability principles.***

a. When programs are jointly provided by two or more school districts or by a school district in cooperation with another educational agency, the budget will specify how each cooperating school district or agency will determine the portion of the program costs to be provided by each school district or agency and will provide a budget that specifies the contribution of each school district or agency.

b. Gifted and talented categorical funding will be used only for expenditures directly related to providing the gifted and talented program described in the program plan. Appropriate expenditures, inappropriate expenditures, and financial management provisions are set forth in 281—Chapter 98.

c. School districts will include and identify the detail of financial transactions related to gifted and talented resources, expenditures, and carryforward balances on their certified annual report, using the account coding appropriate to the gifted and talented program as defined by Uniform Financing Accounting for Iowa School Districts and area education agencies. Each school district will certify its certified annual report following the close of the fiscal year but no later than September 15.

**281—59.5(257) Responsibilities of area education agencies.**

**59.5(1)** When a written request is received from one or more local school boards, an area education agency will establish and operate a gifted and talented advisory council under Iowa Code sections 257.48 and 257.49.

**59.5(2)** Staff of the area education agency will cooperate with school districts in the identification and placement of gifted and talented students. Cooperation may include:

- a. Assisting local school district personnel in the interpretation of available student data.
- b. Assistance in the development of the identification plan.
- c. Providing for psychological testing in individual cases when available data contains significant inconsistencies or in other circumstances when additional data may be necessary for determining the appropriateness of the student placement.

**281—59.6(257) Responsibilities of the department.** The department will review documentation submitted by school districts and area education agencies regarding the school districts' and area education agencies' gifted and talented programs and financial transactions. The department may request that the staff of the auditor of state conduct an independent program audit to verify that the gifted and talented programs conform to a school district's program plans. The department will provide technical assistance to school districts

and to area education agencies in the development of gifted and talented programs.

These rules are intended to implement Iowa Code sections 257.42 through 257.49.