

Iowa State Board of Education

Executive Summary

November 15, 2023



Agenda Item: Rules: 281 IAC Chapter 37 – “Extracurricular Athletic Activity Conference for Member Schools” (Notice of Intended Action)

State Board Priority: Creating a Safe, Healthy, and Welcoming Learning Environment

State Board Role/Authority: This rule making is proposed under the authority provided in Iowa Code section 280.13.

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 37.

Background: After review pursuant to Executive Order 10, the Department proposes to revise Chapter 37 related to activity conference membership by removing unnecessarily restrictive language, as well as consolidating rules for improved organization.

EDUCATION DEPARTMENT[281]

Notice of Intended Action

The State Board hereby proposes to rescind and replace Chapter 37, “Extracurricular Athletic Activity Conference for Member Schools,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 280.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 280.13.

Purpose and Summary

After review pursuant to Executive Order 10, the Department proposes to revise Chapter 37 related to activity conference membership by removing unnecessarily restrictive language, as well as consolidating rules for improved organization.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making must be received by the Department no later than 4:30 p.m. on January 4, 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

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

Hearing 1: January 3, 2024, from 1:30 to 2:00, State Board Room, Grimes State Office Building, Des Moines, IA 50319

Hearing 2: January 4, 2024, from 9:30 to 10:00, State Board Room, Grimes State Office Building, Des Moines, IA 50319

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 State Board and advise of specific

needs. Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 proposed:

ITEM 1. Rescind 281—Chapter 37 and adopt the following **new** chapter in lieu thereof:

CHAPTER 37

EXTRACURRICULAR ATHLETIC ACTIVITY

CONFERENCE FOR MEMBER SCHOOLS

281—37.1(280) General. It is the policy of the state of Iowa that each school desiring to be a member of a conference providing extracurricular athletic contests and competitions for students is granted this opportunity. For purposes of this chapter, “member school” means a school or school district granted such status by any corporation, association, or organization registered with the state department of education pursuant to Iowa Code section 280.13 and includes associate members.

37.1(1) *Criteria.* To the maximum extent appropriate, membership shall be with other schools of comparable size and within reasonable geographic proximity.

37.1(2) *Initial responsibility.* The initial authority and responsibility for conference development, membership, and alignment rests with the board of directors of each public school district and the authorities in charge of each nonpublic school.

281—37.2(280) Complaint to the director, department of education. A member school that believes it has been unfairly excluded or prevented from obtaining membership in an athletic activity conference that would provide the opportunity for participation of its students in athletic events or contests with students from other member schools of comparable size and within

reasonable geographic proximity may file a complaint stating this concern with the director of the department of education. The complaint is to set forth in a plain and concise manner the reasons the member school believes the director should intervene in conference alignment decisions and the specific relief requested by the member school. The complaint is to be signed by the president of the board of directors of a public school district or a representative of the officials in charge of an accredited nonpublic school. The director or the director's designee will, within ten days, acknowledge to the member school receipt of the complaint in writing.

281—37.3(280) Mediation. The director of the department of education will establish a mediation team consisting of the executive director of the Iowa High School Athletic Association (hereinafter association) and the executive secretary of the Iowa Girls' High School Athletic Union (hereinafter union) organizations recognized in 281—Chapter 36, or their designees, to meet with the complainant and representatives of other affected member schools. If the complaint involves conference alignment for athletic activities represented by only one of the organizations, only that organization will be involved in the mediation. A copy of all materials filed with the director by the complainant member school will be provided to the mediation team.

The mediation team will meet with administrators or board members of schools potentially affected by changes in conference alignment related to the complaint. Schools will send representatives who have knowledge of the impact of a conference realignment and full authority to respond on behalf of their member school. Factors to be weighed in reaching resolution include school enrollment figures (current and projected), travel distances, comparability of instructional programs, traditional rivalries, number of existing and proposed schools in the conference, and comparability of athletic programs and other school-sponsored programs.

281—37.4(280) Resolution or recommendation of the mediation team. If mediation results in resolution of the complaint, no further action is necessary on the part of the director and the implementation of the mediation agreement will be left with the boards of directors of school districts and the authorities in charge of nonpublic schools. If no resolution is reached within 50 days of the start of the mediation process, the mediation team will make a recommendation to the director as to the best resolution of the complaint. Copies of this recommendation will be given to all affected member schools. The director will establish a time for a hearing on this recommendation within 45 days of the receipt of the mediation team’s recommendation. The director or director’s designee will conduct the hearing, at which time all affected parties will be given the opportunity to provide oral or written testimony or submit other evidence. The director or director’s designee reserves the right to establish time limits on appearances at the hearing.

281—37.5(280) Decision; effective date. In reaching a decision on the complaint, the director will consider information gathered by the mediation team and its recommendation as well as the written and oral testimony from the hearing. In addition, the director or the director’s designee may consult with other individuals, organizations, or conference representatives able to provide input on a decision. If a designee of the director conducts the hearing and review process, the findings of the designee shall be reviewed by the director. A final decision on the complaint will be made by the director. The decision may affect conference realignment or direct other appropriate relief to remedy the complaint. The director will make a decision within 60 days of the hearing, and copies of the decision will be provided to all affected parties.

If the decision results in conference realignment, the date of this change shall be made with deference given to existing contracts and commitments. Alignment changes will be made for four-year periods with automatic review by the director after two years so that further necessary changes

take effect at the conclusion of the four-year period, unless agreement exists that implementation of the changes can occur at an earlier date.

These rules are intended to implement Iowa Code section 280.13.