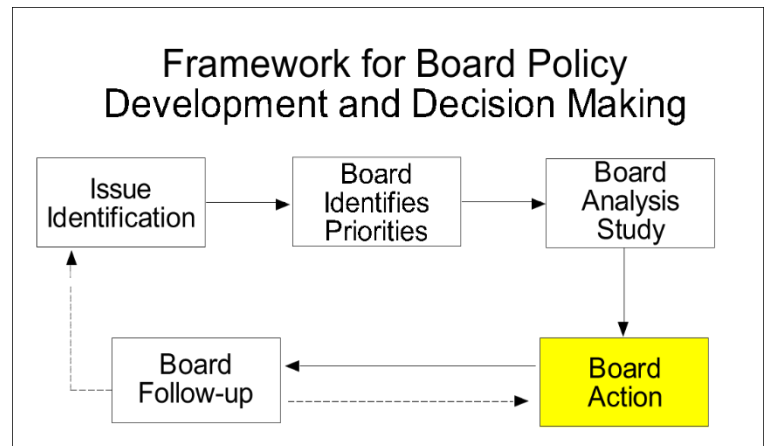


Iowa State Board of Education

Executive Summary

December 4, 2023



Agenda Item: Rules: 281 IAC Chapter 65 – “Programs for At-Risk Early Elementary Students” (Adopt)

State Board Priority: Ensuring Equity in Education

State Board Role/Authority: This rule making is proposed under the authority provided in Iowa Code section 279.51.

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

Attachment(s): One

Recommendation: It is recommended that the State Board adopt this new Chapter 65.

Background: As part of the Department of Education’s review of rules under Executive Order 10, the Department determined that the current midyear report does not add value and the current rules contain unnecessarily restrictive language. The Department is removing that language.

Based on discussions before the state board, the Department is making a technical change to note that grantees have a right to notice and an opportunity to be heard before grant termination (Rule 65.8(2)“a”). No other changes were made from the notice of intended action.

EDUCATION DEPARTMENT[281]

Adopted and Filed

The State Board of Education hereby rescinds Chapter 65, “Programs for At-Risk Early Elementary Students,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 279.51.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 279.51.

Purpose and Summary

As part of the Department of Education’s review of rules under Executive Order 10, the Department determined that the current midyear report does not add value and the current rules contain unnecessarily restrictive language. The Department is removing that language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 4, 2023, as **ARC 7095C**.

Two public hearings were held on October 24, 2023: at 10:00 a.m., in the State Board Room, Grimes State Office Building, Des Moines, and at 5:00 p.m. at Roosevelt High School, Des Moines. No one attended the public hearings. No comments were received.

Based on discussions before the state board, the department is making a technical change to note that grantees have a right to notice and an opportunity to be heard before grant termination (Rule 65.8(2)“a”). No other changes were made from the notice of intended action.

Adoption of Rulemaking

This rulemaking was adopted by the State Board of Education on December 4, 2023.

Fiscal Impact

his 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.

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).

Effective Date

This rulemaking will become effective on January 31, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 281—Chapter 65 and adopt the following **new** chapter in lieu thereof:

CHAPTER 65
PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

281—65.1(279) Definitions.

“*At-risk student*” means, for purposes of this chapter, a student in early elementary grades who is eligible for free or reduced price meals.

“*Awardee*” means a public school district designated to receive the at-risk early elementary

school award funds for buildings serving early elementary grades with a high percentage of at-risk students.

“Department” means the department of education.

“Early elementary grades” means kindergarten through grade three.

281—65.2(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the department will grant awards to districts for buildings serving early elementary grades with a high percentage of at-risk students. Using a formula determined by the department and consistent with Iowa Code section 279.51(1) “c,” the department will distribute awards based on the number of early elementary students in the identified buildings serving a high percentage of at-risk students.

281—65.3(279) Award acceptance process. The department will notify eligible districts of the opportunity to be granted an award for a three-year cycle. A district will make formal acceptance using forms issued and procedures established by the department, and by an official with vested authority to approve the acceptance.

281—65.4(279) Awardee responsibilities. Each year, the awardee will complete reports on forms provided by the department, including the following:

1. An initial report, including a proposed budget and expected outcomes.
2. An end-of-the-year report, including total expenditures and a statement of impact on expected outcomes.

281—65.5(279) Allowable expenditures. School districts will provide, at a minimum, the activities set forth in Iowa Code section 279.51(1) “c.” Additional allowable expenditures include salaries and benefits for teachers and paraeducators, and activities and materials to improve

academic achievement. These funds are to be used for instruction, activities, and materials that are in addition to the regular school curricula for children participating in these programs, and only to be used in the building for which the award is made. Inappropriate uses of award funding include indirect costs or use charges, operational or maintenance costs, capital expenditures, student transportation other than that which is directly related to the activities and materials described in this rule, or administrative costs. Moneys received are subject to the general provisions described in 281—Chapter 98.

281—65.6(279) Evaluation. The awardee will cooperate with the department and provide requested information to determine how well the outcomes in rule 281—65.4(279) are being met. Statewide leadership teams will review final reports and provide useful feedback about buildings to awardees. This feedback will include information about innovative components to building programs. Buildings demonstrating innovation will be given preference the following grant cycle.

281—65.7(279) Budget revisions. The department may grant approval to an awardee for any revisions in the proposed budget in excess of 10 percent of a line item, provided the revisions do not increase the total amount of the award.

281—65.8(279) Termination.

65.8(1) *Termination for convenience.* The award may be terminated, in whole or in part, upon agreement of both parties, concerning the termination conditions, the effective date, and in the case of partial termination, the portion to be terminated. The awardee shall cancel as many outstanding obligations as possible and not incur new obligations for the terminated portion after the effective date of termination.

65.8(2) *Termination for cause.*

a. The award may be terminated, in whole or in part, at any time before the date of completion, whenever the department determines, after notice and an opportunity to be heard, that the awardee has failed to comply substantially with the conditions of the award. The awardee will be notified in writing by the department of the reasons for the termination and the effective date. The awardee shall cancel as many outstanding obligations as possible and not incur new obligations for the terminated portion after the effective date of termination.

b. The department will administer the at-risk early elementary school awards contingent upon the availability of state funds. If there is a lack of funds necessary to fulfill the fiscal responsibility of the awards, the awards are to be terminated or renegotiated. The department may terminate or renegotiate an award upon 30 days' notice when there is a reduction of funds by executive order.

65.8(3) *Responsibility of awardee at termination.* Within 45 days of the effective date of award termination, the awardee will supply the department with a financial statement detailing all program expenditures up to the effective date of the termination. The awardee will be solely responsible for all expenditures after the effective date of termination.

281—65.9(279) Appeals from terminations. Any awardee aggrieved by a unilateral termination of an award may appeal the decision to the director of the department in writing within 30 days of the decision to terminate.

65.9(1) *Form of appeal.* In the notice of appeal, the awardee will give a short and plain statement of the reason for the appeal.

65.9(2) *Appeal procedures.* The hearing procedures found at 281—Chapter 6 will apply to appeals of terminated awards. The director will issue a decision within a reasonable time, not to exceed 120 days from the date of hearing.

65.9(3) *Grounds for reversal.* Termination of an award under this chapter may be reversed only if the awardee proves the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members.

65.9(4) *Mandatory denial of appeal.* In lieu of a decision on the merits of an appeal, the director of the department will deny an appeal if the director finds any of the following:

- a.* The appeal is untimely;
- b.* The appellant lacks standing to appeal;
- c.* The appeal is not in the necessary form or is based upon frivolous grounds;
- d.* The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties; or
- e.* The termination of the award was beyond the control of the department due to lack of available funds.

These rules are intended to implement Iowa Code section 279.51.