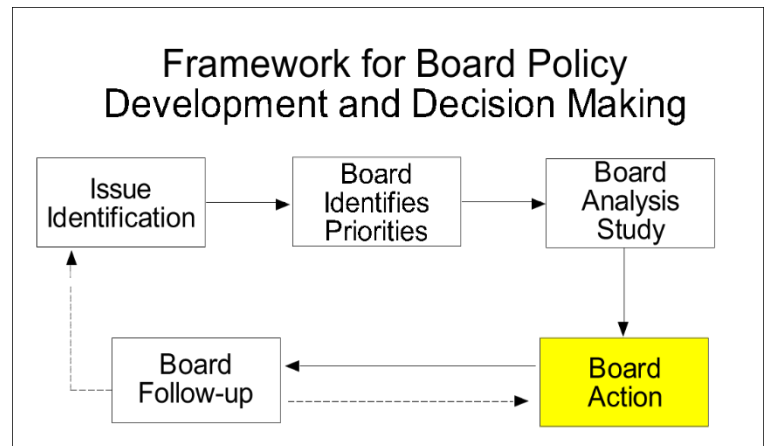


Iowa State Board of Education

Executive Summary

March 21, 2024



Agenda Item:

Rules: 281 IAC Chapter 43, "Pupil Transportation" (Adopt)

State Board Priority:

Creating a Safe, Healthy, and Welcoming Learning Environment

State Board Role/Authority:

This rulemaking implements, in whole or in part, Iowa Code section 285.8.

Presenter(s):

None – Consent Agenda

Attachment(s):

One

Recommendation:

It is recommended that the State Board amend Chapter 43.

Background:

This rulemaking is pursuant to Executive Order 10 review. The current chapter contains verbatim statutory language, unnecessarily restrictive terms, and unenforceable aspirational language. This rulemaking eliminates that language and consolidates rules with similar subject matter to improve the end user's experience. No public comment was received. No one attended either of the hearings. The rules are identical to the rules published in the Notice.

EDUCATION DEPARTMENT[281]

Adopted and Filed

The State Board of Education hereby rescinds Chapter 43, “Pupil Transportation,” 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 285.8.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 285.

Purpose and Summary

This rulemaking is pursuant to Executive Order 10 review. The current chapter contains verbatim statutory language, unnecessarily restrictive terms, and unenforceable aspirational language. This rulemaking eliminates that language and consolidates rules with similar subject matter to improve the end user’s experience.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on February 7, 2024, as **ARC 7590C**.

Public hearings were held on February 27, 2024, at the following times and locations: 11:30 a.m. in Room B100, Grimes State Office Building, Des Moines, and at 3:30 p.m. in Room B50 in the Grimes State Office Building.

No public comment was received. No one attended either of the hearings. The rules are identical to the rules published in the Notice.

Adoption of Rulemaking

This rulemaking was adopted by the State Board on March 21, 2024.

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.

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 May 22, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 281—Chapter 43 and adopt the following **new** chapter in lieu thereof:

TITLE VIII
SCHOOL TRANSPORTATION
CHAPTER 43
PUPIL TRANSPORTATION

DIVISION I
TRANSPORTATION ROUTES

281—43.1(285) Intra-area education agency routes.

43.1(1) Bus routes within the boundaries of transporting districts as well as within designated areas will be as efficient and economical as possible under existing conditions.

43.1(2) The riding time, under normal conditions, from the designated stop to the attendance center, or on the return trip, will not exceed 75 minutes for high school pupils or 60 minutes for elementary pupils. A school district may extend the riding time limits up to 15 minutes subsequent to a public hearing. (These limits may be waived upon request of the parents.)

43.1(3) Pupils whose residence is within two miles of an established stop on a bus route are within the area served by the bus and are not eligible for parent or private transportation at public expense to the school served by the bus, except as follows:

- a. Bus is fully loaded.
- b. Physical disability makes bus transportation impractical.

All parents or guardians who are required by their school district to furnish transportation for their children up to two miles to an established stop on a bus route shall be reimbursed pursuant to Iowa Code section 285.1(4).

43.1(4) Transporting districts are to arrange routes to provide the greatest possible convenience to the pupils. The distance for pupils who are required to travel to meet the bus is to be kept to the minimum consistent with road conditions, uniform standards, and legal provisions for locating bus routes.

43.1(5) Each bus route will be reviewed annually by local transportation staff for safety hazards, and a record of the annual review maintained.

281—43.2(285) Interarea education agency routes.

43.2(1) Joint consultation will be held by the area education agency boards involved. The initial steps may be undertaken by the area education agency administrators. If there are no difficulties and agreement is reached, the route is approved and no further action need be taken.

43.2(2) If agreement is not reached in the initial attempt, the administrator of the area education agency in which the applying school is located will advise the superintendent of reasons for failure to reach agreement and request that the superintendent revise the transportation plan to meet the objection and resubmit same.

43.2(3) If the area education agency boards do not reach agreement on the route, the home area education agency administrator will forward the complete record of the case together with disapproved transportation plan to the state department of education. Every effort should be made, however, to settle the matter locally.

43.2(4) All legal provisions, standards and regulations applying to approval and operation of bus routes apply equally to interarea education agency bus routes.

43.2(5) All interarea education agency bus routes are to be approved each year. If there has been no change in the designations, nor in the proposed route, the transportation plan may be made and agreement indicated by letter.

DIVISION II PRIVATE CONTRACTORS

281—43.3(285) Contract necessary. All private contractors wishing to transport pupils to and from school in privately owned vehicles are to be under contract with the local board of education. This rule does not apply to individuals who transport their own children or other children on a not-for-hire basis.

The contract will include, but not be limited to, all provisions prescribed by the department of education.

281—43.4(285) Uniform charge. The contract will provide for a uniform charge for all pupils transported. No differentiations may be made between pupils of different districts except as provided in Iowa Code section 285.1(12). A private contractor may establish a variance in fees when differences in how transportation is provided are necessary in order to meet student needs.

281—43.5(285) Board to be a party. The contractor may not arrange with individual families for transportation. The contractor undertakes to transport only those families indicated by the board of education.

281—43.6(285) Contract with parents. Parents, guardians, or custodians undertaking to transport other children for hire, in addition to their own, are private contractors. These individuals are to be under contract and obtain an appropriate driver's license and a school bus driver's authorization.

281—43.7(285) Vehicles. Any vehicle used, other than that used by individuals to transport their own children or other children on a not-for-hire basis, is considered to be a school bus and is to meet all requirements for the type of vehicle used, including semiannual inspection. This rule is not intended to govern the use of passenger vehicles during the time the vehicles are not actually engaged in transporting school pupils.

DIVISION III FINANCIAL RECORDS AND REPORTS

281—43.8(285) Required charges. Full pro rata costs are to be charged and collected for the transportation of all nonresident pupils. No differentiation may be made in charges due to differences in distance or grade in school.

281—43.9(285) Activity trips deducted. Transporting school districts that use their equipment for activity trips, educational tours, or other types of transportation services as permitted in Iowa Code section 285.10(9) and 285.10(10) are to deduct the cost of trips from the total yearly transportation cost. These costs may not be included in the pro rata costs that determine the charge to sending districts.

DIVISION IV USE OF SCHOOL BUSES OTHER THAN FOR ROUTES

281—43.10(285) Permitted uses listed. School buses may be used to transport pupils under the following conditions:

43.10(1) The program is a part of the regular or extracurricular program of a public school and has been so adopted and made a matter of record in the minutes of all the boards involved.

43.10(2) The pupils are enrolled in a public or accredited nonpublic school.

43.10(3) The program or activity is sponsored by a school or group of schools cooperatively and is under the direct control of a qualified staff member of a school district.

43.10(4) The bus will be driven by an approved driver holding an appropriate driver's license and a school bus driver's authorization. In addition, the buses will be accompanied by a member of the faculty or other employee of the school or a parent or other adult volunteer as authorized by a school administrator who will be responsible for the conduct and the general supervision of the pupils on the bus and at the place of the activity. This person shall ride the bus. If the faculty member is an approved driver, that person can act both as a driver and faculty sponsor.

43.10(5) School buses may be used by an organization of, or sponsoring activities for, senior citizens, children, individuals with disabilities, and other persons and groups, and for transportation of persons other than pupils to activities in which pupils from the school are participants or are attending the activity or for which the school is a sponsor under the following conditions:

a. The “school bus” signs are covered and the flashing warning lamps and stop arm made inoperable when the bus is being used in a nonschool-sponsored activity.

b. Transportation outside the state of Iowa is not provided without the approval of the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

c. A chaperone rides each bus to assist the passengers in boarding and disembarking from the bus and to aid them in case of illness or injury.

d. The driver of the bus is approved by the local board of education and possesses an appropriate driver’s license and a school bus driver’s authorization.

e. The driver of the bus observes all motor vehicle laws for school buses at all times.

43.10(6) The bus meets passenger seating requirements.

a. Each passenger has a seat, with no part of the passenger’s body extending into the aisle.

b. Student passengers have a minimum of 13 inches of allowable seating per person.

c. For adult groups, no more than two persons occupy a 39-inch seat.

d. Standees are prohibited in all situations, whether the bus is transporting students or adults.

e. The maximum number of passengers never exceeds the rated capacity of the vehicle as it is equipped.

f. Districts with buses utilizing 3-point lap-shoulder belts adopts a board policy regarding use of these lap-shoulder belts by passengers.

DIVISION V THE BUS DRIVER

281—43.11(285) Driver age. School bus drivers must be at least 18 years of age on or before August 1 preceding the opening of the school year for which a school bus driver’s authorization is required.

281—43.12(285) Physical fitness.

43.12(1) General. Except for insulin-dependent diabetics, an applicant for a school bus driver’s authorization is to undergo a biennial physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners. The applicant will submit annually to the applicant’s employer the signed medical examiner’s certificate pursuant to Federal Motor Carrier Safety Administration regulations 49 CFR Sections 391.41 to 391.49, indicating, among other requirements, sufficient physical capacity to operate the bus effectively and to render assistance to the passengers in case of illness or injury and freedom from any communicable disease. At the discretion of the chief administrator or designee of the employer or prospective employer, the chief administrator or designee shall evaluate the applicant’s ability in operating a school bus, including all safety equipment, in providing assistance to passengers in evacuation of the school bus, and in performing other duties required of a school bus driver.

43.12(2) Insulin-dependent diabetics. A person who is an insulin-dependent diabetic may qualify to be a school bus driver if the person meets all qualifications of Iowa Code section 321.375(3). Such driver is subject to an annual physical examination by a qualified medical examiner as listed in subrule 43.12(1).

281—43.13(285) Authorization.

43.13(1) General. The local board of education or its designee will issue a school bus driver's authorization for each approved driver annually once the provisions of Iowa Code section 321.375 are satisfied.

43.13(2) Authorization to be carried by driver. Every school bus driver is to carry a copy of the driver's school bus driver's authorization at all times when the driver is acting in that capacity.

43.13(3) Authorization denials and revocations. A person who believes that a school bus driver who holds an authorization issued by the department of education or who seeks a school bus authorization has committed acts in violation of Iowa Code section 321.375(2) may file a complaint with the department against the driver or applicant. The department will notify the driver or applicant that a complaint has been filed and provide the driver or applicant with a copy of the complaint. A hearing will be set for the purpose of determining whether the bus driver's authorization will be denied, suspended, or revoked, or whether the bus driver should receive a reprimand or warning. Hearing procedures in 281—Chapter 6 apply to such proceedings. No school bus driver or applicant may retain or obtain employment if the local district finds that the individual is listed on the sex offender registry under Iowa Code section 692A.121 available to the general public, the central registry for child abuse information established under Iowa Code section 235A.14, or the central registry for dependent adult abuse information established under Iowa Code section 235B.5. A hearing conducted pursuant to Iowa Code section 321.375(3) or 321.376 is to be limited to the question of whether the school bus driver or applicant was incorrectly listed on the registry. The driver or applicant will not serve in the capacity of a school bus driver while the appeal process is being conducted.

281—43.14(321) Fee collection and distribution of funds. The department of education will assess a fee for semiannual school bus inspections for each vehicle inspected by the department. The department will present for payment a fee statement to the owner of each vehicle inspected. For districts transporting pupils through a private contractor under rule 281—43.3(285), the fee statement will be presented to the contracting district for payment.

The department of education will submit an annual budget request for an amount equal to 100 percent of the total projected fees to be collected during the next fiscal year, which is to be based on an amount equal to the number of vehicle inspections completed during the previous school year multiplied by the inspection fee authorized by statute.

DIVISION VI
PURCHASE OF BUSES

281—43.15(285) Local board procedure. The board of education will proceed as follows in purchasing school buses:

43.15(1) Request bids unless the bus is a used or demonstrator bus.

43.15(2) Notify dealers of intent to purchase school transportation equipment and request bids.

43.15(3) Reserve right to reject all bids.

43.15(4) Require all bids to be on comparable equipment that meets all state and federal requirements.

43.15(5) Hold an open meeting for dealers to present merits of their equipment.

43.15(6) Review bids, tabulate all bids, and make a record of action taken.

43.15(7) Sign contracts or orders for purchase of school transportation equipment. The purchase agreement must provide that the dealer will deliver equipment that will pass initial state

inspection at no further cost to the school.

43.15(8) Notify the department of education of delivery so that arrangements can be made for the initial school bus inspection. No school bus may be put into service until it has passed a pre-use inspection conducted, documented, and reported by the local board of education or its designee on a form prescribed by the department of education. The initial school bus inspection will be conducted at the earliest possible time convenient to the school and the department of education.

281—43.16(285) Financing. The board of education may finance purchase of transportation equipment as follows:

43.16(1) The board may pay all of the cost of each bus from funds on hand in the general fund or other funds allowed by statute.

43.16(2) Bonds may be voted to purchase equipment, and funds so derived are to be used for that purpose.

DIVISION VII MISCELLANEOUS PROVISIONS

281—43.17(285) Semiannual inspection. To facilitate the semiannual inspection program, school and school district officials shall send all vehicles used for student transportation to designated inspection locations as scheduled. A sufficient number of drivers or other school personnel shall be available at the inspection to operate the equipment for the inspectors. The fee for each vehicle inspected is \$50.

281—43.18(285) Maintenance record. School officials shall cause the chassis of all vehicles used for student transportation, whether publicly or privately owned, to be inspected annually and all necessary repairs made before the vehicle is put into service. The inspection and repairs will be recorded on a form prescribed by the department of education. The completed form is to be signed and dated by the mechanic and carried in the glove compartment of the bus.

281—43.19(285) Drivers' schools. All school bus drivers shall attend classes or schools of instruction as approved by the department of education and provided for in Iowa Code section 321.376(2). All new drivers will, within the first six months of employment, successfully complete the "new driver STOP class" approved by the department. All current school bus drivers are to attend the annual course of instruction. Upon missing a year of instruction, a current driver must successfully complete the course of instruction for new drivers prior to receiving an authorization. The employer of a school bus driver may impose additional training for any new or current driver.

281—43.20(285) Insurance. The board of education will carry insurance on all school-owned buses and see that insurance is carried by all contractors engaged in transporting pupils for the district in the coverages and limits as determined by the board of education.

281—43.21(285) Contract—privately owned buses. The board of education and a contractor who undertakes to transport school pupils for the board, in privately owned vehicles, shall sign a contract that includes the following provisions:

43.21(1) To furnish and operate at the contractor's own expense a legally approved vehicle of transportation transporting only children attending the school designated by the board of education.

43.21(2) To comply with all legal and established uniform standards of operation as required by statute or by legally constituted authorities.

43.21(3) To comply with all uniform standards established for protection of health and safety for pupils transported.

43.21(4) To comply with all rules and regulations adopted by the board of education for the protection of the children, or to govern the conduct of the driver of bus.

43.21(5) To keep bus in good mechanical condition and up to standards required by statutes or by legally constituted authorities.

43.21(6) To take school bus to official inspection when held by state authorities with no additional expense to party of second part.

43.21(7) To use only drivers and substitute drivers who have been approved by the board of education and have been issued a current school bus driver's authorization.

43.21(8) To furnish the board of education an approved certificate of medical examination for each person who is approved by the board of education to drive the bus.

43.21(9) To attend a school of instruction for bus drivers as prescribed by the department of education. (If the owner does not drive the bus, the regular approved driver of the bus shall attend.)

43.21(10) To carry insurance on bus and pupils in the coverages and limits as determined by the board of education, with a copy of the policy filed with superintendent of schools.

43.21(11) To make such reports as may be required by state department of education, area education agency board of education, and superintendent of schools.

43.21(12) To use the school bus only for transporting regularly enrolled students to and from public school and to extracurricular activities approved and designated by the board of education and further to comply with all legal restrictions on use of bus.

43.21(13) To obtain, if possible, the license plate numbers of all vehicles violating the school bus passing law, Iowa Code section 321.372, and file information for prosecution.

43.21(14) To reserve the right of the board of education to change routing of the bus and, if additional mileage is required, allow for an extra cost.

43.21(15) To ensure immoral conduct or the use of alcoholic beverages by the contractor or driver employed by the contractor shall result in appropriate sanctions as provided in Iowa Code section 321.375.

43.21(16) To allow the contract to be terminated on 90-day notice by either party as provided by Iowa Code section 285.5(4).

43.21(17) An agreement that, if the contractor desires to terminate the contract, the school bus will be sold to the board of education at its request as provided in Iowa Code section 285.5(1). This provision does not apply to a passenger vehicle used as a school bus.

281—43.22(285) Contract—district-owned buses. The board of education and a private individual undertaking to transport school pupils for the board in school district-owned vehicles shall sign a contract substantially similar to that prescribed by the department of education. The contract will contain the following provisions:

43.22(1) To conform to all rules of the board of education in and for the district adopted for the protection of the children and to govern the conduct of the person in charge of the conveyance.

43.22(2) To make reports as may be required by the department of education, area education agency, or superintendent of schools.

43.22(3) To conform to all standards for operation of the school buses as provided by statute or by legally constituted authorities.

43.22(4) That the employee is entitled to benefits as outlined in the school board policy for the school district.

43.22(5) To attend a school of instruction for bus drivers as prescribed by the department of

education.

43.22(6) That the employer may terminate the contract and dismiss the employee for failure to conform to all laws of the state of Iowa and rules promulgated by the Iowa department of education applicable to drivers of school buses.

43.22(7) That the contract is not in force until the driver presents an official school bus driver's authorization.

281—43.23(285) Railroad crossings. The driver of any school bus will comply with Iowa Code section 321.343, regardless of whether or not there are any pupils in the bus, and regardless of whether or not there is an automatic signal at the crossing. After stopping, the driver shall open the entrance door, shall look and listen for approaching trains, and shall not proceed to cross the tracks until it is safe to do so.

281—43.24(285) Driver regulations.

43.24(1) The driver of a school vehicle shall not smoke in the vehicle or on any school property.

43.24(2) The driver shall not permit firearms or other weapons, nor ammunition, to be carried in the passenger compartment of any school vehicle transporting pupils.

43.24(3) The driver shall not fill the fuel tank while the motor is running or when there are passengers in the vehicle.

43.24(4) The driver shall ensure that aisles and exits are not blocked.

281—43.25(285) Civil defense projects. Civil defense projects may be recognized by the board of directors of any school district as an authorized extracurricular activity.

43.25(1) The use of school buses for field trips and exercises, and the planned use of school buses in connection with actual emergency procedures to be carried on in cooperation with local, state or national authorities, civil or military, is hereby defined as properly incident to such authorized extracurricular activity.

43.25(2) The bus will be driven by an approved driver holding an appropriate driver's license and a school bus driver's authorization except that in actual emergency situations, where approved drivers are not available, other drivers, including students and teachers, may be used if allowed by local school board policy.

281—43.26(285) Pupil instruction. At least twice during each school year, once in the fall and once in the spring, each pupil who is transported in a school vehicle shall be instructed in safe riding practices and participate in emergency evacuation drills. Documentation of these drills will be maintained locally for five years and made available upon request.

281—43.27(285) Trip inspections.

43.27(1) A pretrip inspection of each school vehicle will be performed and recorded prior to each trip to determine if any defects or deficiencies exist that may affect the safety of the vehicle's operation or result in its mechanical breakdown. The pretrip inspection report is to be signed by the driver and submitted promptly to the person responsible for the school transportation program. Any deficiencies that merit an OOS (out of service) rating pursuant to department of education school bus inspection guidelines must be repaired prior to use of the vehicle. All other deficiencies should be repaired as soon as possible but do not bar the use of the vehicle.

43.27(2) A posttrip inspection of the interior of the school vehicle shall be performed after each trip to ensure no passengers remain.

281—43.28(285) Loading and unloading areas. Restricted loading and unloading areas will be established for school buses at or near schools.

281—43.29(285) Communication equipment. Each school bus is to have a communications system capable of communication between the driver of the bus and the school's base of operations for school transportation.

DIVISION VIII COMMON CARRIERS

281—43.30(285) Standards for common carriers. This rule applies to any vehicle operated by a common carrier when used exclusively for student transportation to and from school. "Common carrier" refers to a person or entity in the business of transporting goods or people for hire as a public service.

43.30(1) Vehicles.

a. The vehicles need not be painted yellow and black as required for conventional school buses.

b. The vehicles, while transporting children to and from school, are to be equipped with temporary signs, located conspicuously on the front and back of the vehicle. The sign on the front is to have the words "School Bus" printed in black letters six inches high, on a background of National School Bus Yellow. The sign on the rear is to be painted National School Bus Yellow and have the words "School Bus" printed in black letters six inches high. The colors are to conform to those described within 281—subrule 44.3(10).

43.30(2) Drivers.

a. The driver is to have an appropriate driver's license issued by the Iowa department of transportation.

b. The driver is to possess a school bus driver's authorization issued by the Iowa department of education.

c. The driver will receive training in accordance with state statutes and rules for school bus drivers.

43.30(3) Seating. Each passenger is to have a seat; standees are prohibited. No passenger may be present in the bed of a pickup when the vehicle is being operated.

43.30(4) Loading and unloading procedures.

a. The vehicle is to pull close enough to the curb to prevent another vehicle from passing on its right side.

b. If the vehicle is not equipped with flashing warning lights and stop arm, or if use of this equipment is not allowed by law, the pupils, on unloading, are to be instructed to remain at the curb until the bus has pulled away and it is safe for them to cross the street.

43.30(5) Inspection of vehicles.

a. Drivers are to perform pretrip inspections of their vehicles to determine if any defects or deficiencies exist that may affect the safety of the vehicle's operation or result in its mechanical breakdown. The pretrip inspection report is to be submitted promptly to the person charged with maintenance of the vehicle. Any defects or deficiencies that merit an OOS (out of service) rating pursuant to department of education school bus inspection guidelines are to be repaired prior to use of the vehicle. All other defects or deficiencies should be repaired as soon as possible but do not bar the use of the vehicle.

b. Vehicles are to be inspected semiannually by personnel of the department of education in

accordance with the provisions of Iowa Code section 285.8(4).

43.30(6) *Other provisions.*

a. Local school officials are to provide the carrier with passenger conduct rules and the driver is to abide by the policies and procedures established by the local district.

b. Student instruction for passenger safety is the responsibility of the local school district as specified in rule 281—43.26(285).

These rules are intended to implement Iowa Code chapter 285.