

State of Iowa

Iowa
Administrative
Code
Supplement

Biweekly
April 17, 2024



Published by the
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code (IAC) Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement is a compilation of updated Iowa Administrative Code chapters that reflect rule changes which have been adopted by agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17, 17A.4, and 17A.5 and published in the Iowa Administrative Bulletin bearing the same publication date as the one for this Supplement. To determine the specific changes to the rules, refer to the Iowa Administrative Bulletin. To maintain a loose-leaf set of the IAC, insert the chapters according to the instructions included in the Supplement.

In addition to the rule changes adopted by agencies, the chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.8(9) or 17A.8(10); rescission of a rule by the Governor pursuant to section 17A.4(8); nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa; other action relating to rules enacted by the General Assembly; updated chapters for the Uniform Rules on Agency Procedure; or an editorial change to a rule by the Administrative Code Editor pursuant to Iowa Code section 2B.13(2).

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone 515.281.3355 or 515.242.6873

Agriculture and Land Stewardship Department[21]

Replace Analysis
Replace Chapter 50

Insurance Division[191]

Replace Analysis
Remove Reserved Chapters 113 to 140
Insert Chapter 113 and Reserved Chapters 114 to 140

Architectural Examining Board[193B]

Replace Analysis
Replace Chapters 1 to 7

Real Estate Commission[193E]

Replace Analysis
Replace Chapters 1 to 21

Real Estate Appraiser Examining Board[193F]

Replace Analysis
Remove Chapters 1 to 13, Reserved Chapter 14, and Chapters 15 to 29
Insert Chapters 1 to 13 and Reserved Chapters 14 to 29

Utilities Division[199]

Replace Analysis
Replace Chapter 8 with Reserved Chapter 8

Education Department[281]

Replace Analysis
Replace Chapter 5
Remove Reserved Chapters 8 to 10 and Chapters 11 and 12
Insert Reserved Chapters 8 to 11 and Chapter 12
Replace Chapters 14 and 15
Replace Chapter 17
Replace Chapter 21
Remove Reserved Chapter 23 and Chapter 24
Insert Reserved Chapters 23 and 24
Replace Chapter 34
Replace Chapter 41

Replace Chapters 43 and 44
Replace Chapter 46
Replace Chapters 62 to 64
Remove Reserved Chapter 66 and Chapter 67
Insert Reserved Chapters 66 and 67
Replace Chapter 81
Replace Chapters 96 to 98
Replace Chapters 102 and 103
Replace Chapter 120

Inspections and Appeals Department[481]

Replace Analysis
Replace Chapters 2 to 4
Replace Chapter 8
Replace Chapter 34

Iowa Public Employees' Retirement System[495]

Replace Chapters 4 and 5
Replace Chapter 11

Public Health Department[641]

Replace Analysis
Replace Chapter 22
Replace Chapter 26
Replace Chapter 46

Professional Licensure Division[645]

Replace Analysis
Remove Chapters 100 to 104, Reserved Chapters 105 to 120, and Chapters 121 to 124
Insert Chapters 100 to 102, Reserved Chapter 103, Chapters 104 and 105, Reserved Chapters 106 to 120, and Chapters 121 to 124
Replace Chapters 240 to 243
Replace Chapters 300 and 301
Replace Chapters 303 and 304
Replace Chapters 361 to 363

Public Safety Department[661]

Replace Analysis
Replace Chapter 61
Replace Chapter 235
Replace Chapter 265
Remove Chapters 275 to 278 and Reserved Chapters 279 to 290
Insert Chapters 275 to 277 and Reserved Chapters 278 to 290
Remove Chapters 500 to 503
Insert Chapter 500, Reserved Chapter 501, and Chapters 502 and 503
Remove Chapters 505 and 506 and Reserved Chapters 507 to 549
Insert Chapter 505 and Reserved Chapters 506 to 549

Revenue Department[701]

Replace Analysis
Replace Chapters 19 to 25

Remove Reserved Chapters 27 to 99
Insert Chapter 27 and Reserved Chapters 28 to 99

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

[Created by 1986 Iowa Acts, chapter 1245]
[Prior to 7/27/88, Agriculture Department[30]]
Rules under this Department “umbrella” also include
Agricultural Development Authority[25] and Soil Conservation Division[27]

CHAPTER 1 ADMINISTRATION

- 1.1(159) Organization
- 1.2(159) Consumer protection and industry services division
- 1.3(159) Administration division
- 1.4(159) Soil conservation division
- 1.5(159) Food safety and animal health

CHAPTER 2 CONTESTED CASE PROCEEDINGS AND PRACTICE (Uniform Rules)

- 2.1(17A,159) Scope and applicability
- 2.2(17A,159) Definitions
- 2.3(17A,159) Time requirements
- 2.4(17A,159) Requests for contested case proceeding
- 2.5(17A,159) Notice of hearing
- 2.6(17A,159) Presiding officer
- 2.12(17A,159) Service and filing of pleadings and other papers
- 2.15(17A,159) Motions
- 2.16(17A,159) Prehearing conference
- 2.17(17A,159) Continuances
- 2.22(17A,159) Default
- 2.23(17A,159) Ex parte communication
- 2.24(17A,159) Recording costs
- 2.25(17A,159) Interlocutory appeals
- 2.26(17A,159) Final decision
- 2.27(17A,159) Appeals and review
- 2.28(17A,159) Applications for rehearing
- 2.29(17A,159) Stays of agency action

CHAPTER 3 PETITIONS FOR RULE MAKING (Uniform Rules)

- 3.1(17A) Petition for rule making
- 3.3(17A) Inquiries
- 3.5(17A) Petitions for related entities

CHAPTER 4 DECLARATORY ORDERS (Uniform Rules)

- 4.1(17A,159) Petition for declaratory order
- 4.2(17A,159) Notice of petition
- 4.3(17A,159) Intervention
- 4.4(17A,159) Briefs
- 4.5(17A,159) Inquiries
- 4.6(17A,159) Service and filing of petitions and other papers
- 4.7(17A,159) Consideration

- 4.8(17A,159) Action on petition
- 4.9(17A,159) Refusal to issue order
- 4.12(17A,159) Effect of a declaratory order

CHAPTER 5
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

- 5.1(17A,159) Applicability
- 5.3(17A,159) Public rule-making docket
- 5.4(17A,159) Notice of proposed rule making
- 5.5(17A,159) Public participation
- 5.6(17A,159) Regulatory analysis
- 5.10(17A,159) Exemptions from public rule-making procedures
- 5.11(17A,159) Concise statement of reasons
- 5.13(17A,159) Agency rule-making record

CHAPTER 6
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

- 6.1(17A,22) Definitions
- 6.3(17A,22) Requests for access to records
- 6.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
- 6.9(17A,22) Disclosures without the consent of the subject
- 6.10(17A,22) Routine use
- 6.11(17A,22) Consensual disclosure of confidential records
- 6.12(17A,22) Release to subject
- 6.13(17A,22) Availability of records
- 6.14(17A,22) Personally identifiable information
- 6.15(17A,22) Other groups of records
- 6.16(17A,22) Data processing systems
- 6.17(159,252J,272D) Release of confidential licensing information for collection purposes

CHAPTER 7
COLLECTION PROCEDURES

- 7.1(159,252J,272D) Licensing actions
- 7.2(159,252J,272D) Collection procedures

CHAPTER 8
WAIVER OF RULES

- 8.1(17A,159) Definition
- 8.2(17A,159) Scope of chapter
- 8.3(17A,159) Applicability
- 8.4(17A,159) Criteria for waiver
- 8.5(17A,159) Filing of petition
- 8.6(17A,159) Content of petition
- 8.7(17A,159) Additional information
- 8.8(17A,159) Notice
- 8.9(17A,159) Hearing procedures
- 8.10(17A,159) Ruling
- 8.11(17A,159) Public availability
- 8.12(17A,159) Submission of waiver information
- 8.13(17A,159) Cancellation of a waiver
- 8.14(17A,159) Violations

- 8.15(17A,159) Defense
- 8.16(17A,159) Judicial review

CHAPTERS 9 to 11

Reserved

CHAPTER 12

RENEWABLE FUELS AND COPRODUCTS

- 12.1(159A) Purpose
- 12.2(159A) Definitions
- 12.3(159A) General provisions
- 12.4(159A) Renewable fuels motor vehicle fuels decals

CHAPTER 13

RENEWABLE FUEL INFRASTRUCTURE BOARD—ORGANIZATION

- 13.1(159A) Definitions
- 13.2(159A) Renewable fuel infrastructure board

CHAPTER 14

RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR
RETAIL MOTOR FUEL SITES

- 14.1(159A) Purpose
- 14.2(159A) Eligible applicants

CHAPTER 15

RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR
BIODIESEL TERMINAL GRANTS

- 15.1(159A) Purpose
- 15.2(159A) Eligible applicants

CHAPTER 16

RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

- 16.1(159A) Form of award available; award amount
- 16.2(159A) Application process
- 16.3(159A) Review process
- 16.4(159A) Contract administration

CHAPTERS 17 to 19

Reserved

CHAPTER 20

REFERENDUM

- 20.1(159) Purpose
- 20.2(159) Definitions
- 20.3(159) Voter eligibility
- 20.4(159) Referendum methods and procedures
- 20.5(159) Contesting referendum results
- 20.6(159) Official certification

CHAPTER 21

Reserved

CHAPTER 22

APIARY

22.1(160)	Diseases
22.2(160)	Parasites
22.3(160)	Requirement for the sale of bees
22.4(160)	Certificate of inspection required
22.5(160)	Certificate of inspection expiration
22.6(160)	American Foulbrood treatment
22.7(160)	Varroa mite treatment
22.8(160)	Undesirable subspecies of honeybees
22.9(160)	European honeybee certification
22.10(160)	Prohibit movement of bees from designated states
22.11(160)	Inspection required for the sale of bees, comb, or used equipment

CHAPTERS 23 to 35

Reserved

CHAPTER 36

EGG HANDLERS

36.1(196)	Definitions
36.2(196)	Licensing
36.3(196)	Minimum sanitation and operating requirements
36.4(196)	Egg grading or candling area
36.5(196)	Water supply
36.6(196)	Egg storage
36.7(196)	Eggs used in food preparation
36.8(196)	Labeling and packaging
36.9(196)	Restricted eggs
36.10(196)	Inspections and records
36.11(196)	Enforcement
36.12(196)	Health and hygiene of personnel
36.13(196)	Iowa grades

CHAPTERS 37 to 39

Reserved

CHAPTER 40

AGRICULTURAL SEEDS

40.1(199)	Agricultural seeds
40.2(199)	Seed testing
40.3(199)	Labeling
40.4 and 40.5	Reserved
40.6(199)	Classes and sources of certified seed
40.7(199)	Labeling of seeds with secondary noxious weeds
40.8(199)	Germination standards for vegetable seeds
40.9(199)	White sweet clover
40.10(199)	Labeling of conditioned seed distributed to wholesalers
40.11(199)	Seeds for sprouting
40.12(199)	Relabeling
40.13(199)	Hermetically sealed seed
40.14(199)	Certification of seed and potatoes
40.15(199)	Federal regulations adopted
40.16(199)	Seed libraries

CHAPTER 41
COMMERCIAL FEED

41.1(198)	Definitions and terms
41.2(198)	Label format
41.3(198)	Label information
41.4(198)	Expression of guarantees
41.5(198)	Suitability
41.6(198)	Ingredients
41.7(198)	Directions for use and precautionary statements
41.8(198)	Nonprotein nitrogen
41.9(198)	Drug and feed additives
41.10(198)	Adulterants
41.11(198)	Good manufacturing practices
41.12(198)	Cottonseed product control

CHAPTER 42
PET FOOD

42.1(198)	Definitions and terms
42.2(198)	Label format and labeling
42.3(198)	Brand and product names
42.4(198)	Expression of guarantees
42.5(198)	Ingredients
42.6(198)	Drugs and pet food additives
42.7(198)	Statements of calorie content
42.8(198)	Descriptive terms

CHAPTER 43
FERTILIZERS AND AGRICULTURAL LIME

43.1(200)	Additional plant food elements besides N, P and K
43.2(200)	Warning required
43.3(200)	Specialty fertilizer labels
43.4(200)	Pesticides in fertilizers
43.5(200)	Cancellation or suspension of registration or license
43.6(200)	Standard for the storage and handling of anhydrous ammonia
43.7(200)	Groundwater protection fee
43.8 to 43.19	Reserved
43.20(201)	Agricultural lime
43.21(200)	Minimum requirements for registration of fertilizer and soil conditioners
43.22(200)	Provisional product registration
43.23(200)	Review of product registrations
43.24(200)	Product claims
43.25 to 43.29	Reserved
43.30(201A)	Definitions
43.31(201A)	Determination of ECCE
43.32(201A)	Sample procedure
43.33(201A)	Sample analysis
43.34(201A)	Sample fee
43.35(201A)	Certification
43.36(201A)	Compliance with certification
43.37(201A)	Labeling
43.38(201A)	Toxic materials prohibited

- 43.39(201A) Added materials
- 43.40(201A) Egg shells

CHAPTER 44
ON-SITE CONTAINMENT
OF PESTICIDES, FERTILIZERS AND SOIL CONDITIONERS

PESTICIDES

- 44.1(206) Definitions
- 44.2(206) On-site containment of pesticides
- 44.3(206) Design plans and specifications
- 44.4(206) Certification of construction
- 44.5(206) New pesticide storage and mixing site location
- 44.6(206) Pesticide storage and mixing site
- 44.7(206) Secondary containment for nonmobile bulk pesticide storage and mixing
- 44.8(206) Pesticide storage and mixing site containers
- 44.9(206) Transportation of bulk pesticides
- 44.10(206) Mixing, repackaging and transfer of pesticides
- 44.11(206) Distribution of bulk pesticides
- 44.12(206) Secondary containment for aerial applicator aircraft
- 44.13 to 44.49 Reserved

FERTILIZERS AND SOIL CONDITIONERS

- 44.50(200) On-site containment of fertilizers and soil conditioners
- 44.51(200) Definitions
- 44.52(200) Design plans and specifications
- 44.53(200) New fertilizer or soil conditioner storage site location
- 44.54(200) Certification of construction
- 44.55(200) Secondary containment for liquid fertilizers and liquid soil conditioner storage
- 44.56(200) Secondary containment for nonliquid fertilizers and soil conditioners
- 44.57(200) Fertilizer loading, unloading, and mixing area
- 44.58(200) Wash water and rinsates

CHAPTER 45
PESTICIDES

DIVISION I

- 45.1(206) Definitions and standards
- 45.2(206) Methods of analysis
- 45.3(206) Registration required
- 45.4(206) Registration of products
- 45.5(206) Registration, general application of
- 45.6(206) Revocation, suspension or denial of registration
- 45.7(206) Changes in labeling or ingredient statement
- 45.8(206) Label requirements
- 45.9(206) Directions for use—when necessary
- 45.10(206) Other claims
- 45.11(206) Name of product
- 45.12(206) Brand names, duplication of, or infringement on
- 45.13(206) Ingredient statement
- 45.14(206) Net contents
- 45.15(206) Coloration of highly toxic materials
- 45.16(206) Illegal acts
- 45.17(206) Guarantee of pesticide

45.18(206)	Shipments for experimental use
45.19(206)	Enforcement
45.20(206)	Hazardous rodenticides
45.21(206)	Highly toxic
45.22(206)	License and certification standards for pesticide applicators
45.23(206)	Sale or possession of thallium
45.24(206)	Warning, caution and antidote statements
45.25(206)	Declaration of pests
45.26(206)	Record-keeping requirements
45.27(206)	Use of high volatile esters
45.28(206)	Emergency single purchase/single use of restricted pesticide
45.29(206)	Application of general use pesticide by nonlicensed commercial applicator
45.30(206)	Restricted use pesticides classified
45.31(206)	Application of pesticides toxic to bees
45.32(206)	Use of DDT and DDD
45.33(206)	Use of inorganic arsenic
45.34(206)	Use of heptachlor
45.35(206)	Use of lindane
45.36(206)	Reports of livestock poisoning
45.37(206)	Approval of use of inorganic arsenic formulation
45.38 to 45.44	Reserved
45.45(206)	Ethylene dibromide (EDB) residue levels in food
45.46(206)	Use of pesticide Command 6EC
45.47(206)	Reporting of pesticide sales
45.48(206)	Dealer license fees
45.49(206)	Pesticide use recommendations
45.50(206)	Notification requirements for urban pesticide applications
45.51(206)	Restrictions on the distribution and use of pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine
45.52(206)	Continuing instructional courses for pesticide applicator recertification

DIVISION II

45.53 to 45.99	Reserved
----------------	----------

DIVISION III
CIVIL PENALTIES

45.100(206)	Definitions
45.101(206)	Commercial pesticide applicator peer review panel
45.102(206)	Civil penalties—establishment, assessment, and collection
45.103(206)	Review period
45.104(206)	Review by peer review panel
45.105(206)	Response by peer review panel

CHAPTER 46
CROP PESTS

46.1(177A)	Nursery stock
46.2(177A)	Hardy
46.3(177A)	Person
46.4(177A)	Nursery growers
46.5(177A)	Nursery
46.6(177A)	Nursery dealer
46.7(177A)	Out-of-state nursery growers and nursery dealers
46.8(177A)	Nursery inspection
46.9(177A)	Nursery dealer certificate

46.10(177A)	Proper facilities
46.11(177A)	Storage and display
46.12(177A)	Nursery stock viability qualifications
46.13(177A)	Certificates
46.14(177A)	Miscellaneous and service inspections
46.15(177A)	Insect pests and diseases
46.16(177A)	Firewood labeling

CHAPTER 47

IOWA ORGANIC PROGRAM

47.1(190C)	Iowa organic program
47.2	Reserved
47.3(190C)	Drift
47.4	Reserved
47.5(190C)	Recognition
47.6(190C)	General requirements
47.7	Reserved
47.8(190C)	Certification agent

ADMINISTRATIVE

47.9(190C)	Fees
47.10(190C)	Compliance

CHAPTER 48

PESTICIDE ADVISORY COMMITTEE

48.1(206)	Function
48.2(206)	Staff
48.3(206)	Advisors
48.4(206)	Meetings
48.5(206)	Open records
48.6(206)	Budget
48.7(206)	Review of pesticide applicator instructional course and examination

CHAPTER 49

BULK DRY ANIMAL NUTRIENTS

49.1(200A)	Definitions
49.2(200A)	License
49.3(200A)	Registration
49.4(200A)	Additional plant elements
49.5(200A)	Distribution statement
49.6(200A)	Distribution reports
49.7(200A)	Storage of bulk dry animal nutrients
49.8(200A)	Manure management plans

CHAPTER 50

WOMEN, INFANTS, AND CHILDREN/FARMERS' MARKET NUTRITION PROGRAM AND
SENIOR FARMERS' MARKET NUTRITION PROGRAM

50.1(159,175B)	Authority and scope
50.2(159,175B)	Severability
50.3(159,175B)	Definitions
50.4(159,175B)	Administration and agreements
50.5(159,175B)	Distribution of benefits
50.6(159,175B)	Recipient responsibilities
50.7(159,175B)	Recipient noncompliance sanctions

- 50.8(159,175B) Farmers' market, farmstand, and community supported agriculture (CSA) authorization
- 50.9(159,175B) Vendor certification and eligibility
- 50.10(159,175B) Certified vendor obligations
- 50.11(159,175B) Certified vendor noncompliance sanctions
- 50.12(159,175B) Appeal
- 50.13(159,175B) Deadlines

CHAPTER 51
FARM-TO-SCHOOL FUND

- 51.1(190A) Purpose
- 51.2(190A) Definitions
- 51.3(190A) Application to participate
- 51.4(190A) Eligible purchases
- 51.5(190A) Reimbursement for purchases

CHAPTER 52
MARKETING

CHOOSE IOWA PROMOTIONAL PROGRAM

- 52.1(159) Definitions
- 52.2(159) Product qualification
- 52.3(159) Application for membership
- 52.4(159) Membership fees
- 52.5(159) Approval for use of logo
- 52.6(159) Self-certification
- 52.7(159) Compliance
- 52.8(159) Violations
- 52.9 to 52.19 Reserved

VALUE-ADDED AGRICULTURE GRANT PROGRAM

- 52.20(159) Definitions
- 52.21(159) Eligibility
- 52.22(159) Application and review process
- 52.23(159) Scoring criteria
- 52.24(159) Disbursement of funds
- 52.25 to 52.40 Reserved

DAIRY INNOVATION PROGRAM

- 52.41(159) Definitions
- 52.42(159) Eligibility
- 52.43(159) Application and review process
- 52.44(159) Scoring criteria
- 52.45(159) Grant agreement
- 52.46(159) Disbursement of funds
- 52.47(159) Authority of department

CHAPTERS 53 to 57
Reserved

CHAPTER 58
NOXIOUS WEEDS

- 58.1(317) Definitions
- 58.2(317) Purple loosestrife

- 58.3(317) Records
- 58.4(317) Noxious weed lists

CHAPTER 59

Reserved

CHAPTER 60

POULTRY

- 60.1(168) Egg-type chickens, meat-type chickens, turkeys, domestic waterfowl, domestic game birds and exhibition poultry
- 60.2(168) License for dealers of baby chicks or domestic fowls
- 60.3(163) Turkeys
- 60.4(163) Registration of exhibitions involving poultry

CHAPTER 61

DEAD ANIMAL DISPOSAL

- 61.1(167) Dead animal disposal—license
- 61.2(167) Animal disposal—persons defined
- 61.3(167) Disposing of dead animals by cooking
- 61.4(167) License fee
- 61.5(167) Certificate issuance
- 61.6(167) Filing certificate
- 61.7(167) License renewal
- 61.8 to 61.10 Reserved
- 61.11(167) Disposal plant plans
- 61.12(167) Disposal plant specifications
- 61.13 and 61.14 Reserved
- 61.15(167) Conveyances requirements
- 61.16(167) Disposal plant trucks
- 61.17(167) Disposal employees
- 61.18(167) Tarpaulins
- 61.19(167) Disposal vehicles—disinfection
- 61.20 to 61.22 Reserved
- 61.23(167) Rendering plant committee
- 61.24(167) Rendering plant—spraying
- 61.25(167) Penalty
- 61.26 and 61.27 Reserved
- 61.28(167) Anthrax
- 61.29(167) Anthrax—disposal
- 61.30(167) Classical swine fever—carcasses
- 61.31(167) Noncommunicable diseases—carcasses
- 61.32(167) Carcass disposal—streams
- 61.33(167) Improper disposal

CHAPTER 62

REGISTRATION OF IOWA-FOALED
HORSES AND IOWA-WHELPED DOGS

- 62.1(99D) Definitions
- 62.2(99D) Iowa horse and dog breeders' fund and Iowa thoroughbred horse breeders' promotion fund
- 62.3(99D) Forms
- 62.4(99D) Disciplinary actions
- 62.5(99D) Access to premises and records

62.6(99D) Registration fees
62.7 to 62.9 Reserved

THOROUGHBRED DIVISION

62.10(99D) Iowa thoroughbred stallion requirements
62.11(99D) Notification requirements
62.12(99D) Stallion qualification and application procedure
62.13(99D) Application information
62.14(99D) Breeding record—report of mares bred
62.15(99D) Iowa-foaled horses and brood mares
62.16(99D) Iowa-foaled horse status
62.17 to 62.19 Reserved

STANDARD BRED DIVISION

62.20(99D) Iowa standardbred stallion requirements
62.21(99D) Notification requirements
62.22(99D) Stallion qualification and application procedure
62.23(99D) Application information
62.24(99D) Breeding record—report of mares bred
62.25(99D) Iowa-foaled horses and brood mares
62.26(99D) Iowa-foaled horse status
62.27 to 62.29 Reserved

QUARTER HORSE DIVISION

62.30(99D) Iowa quarter horse stallion requirements
62.31(99D) Notification requirements
62.32(99D) Stallion qualification and application procedure
62.33(99D) Application information
62.34(99D) Breeding record—report of mares bred
62.35(99D) Iowa-foaled horses and brood mares
62.36(99D) Iowa-foaled horse status
62.37(99D) Embryo transfer for Iowa-foaled status
62.38 and 62.39 Reserved

GREYHOUND DOG DIVISION

62.40(99D) Iowa-whelped dog requirements
62.41(99D) Procedures for registration

CHAPTER 63
BRANDING

63.1(169A) Location of brands on livestock
63.2(169A) Brands in conflict

CHAPTER 64
INFECTIOUS AND CONTAGIOUS DISEASES

64.1(163) Reporting disease
64.2(163) Disease prevention and suppression
64.3(163) Duties of township trustees and health board
64.4(163) “Exposed” defined
64.5(163) Sale of vaccine
64.6(163) “Quarantine” defined
64.7(163) Chiefs of Iowa and U.S. animal industries to cooperate
64.8(163) Animal blood sample collection
64.9 Reserved

GLANDERS AND FARCY CONTROL

- 64.10(163) Preventing spread of glanders
- 64.11(163) Disposal of diseased animal
- 64.12(163) Glanders quarantine
- 64.13(163) Tests for glanders and farcy
- 64.14 Reserved

BLACKLEG CONTROL

- 64.15(163) Blackleg
- 64.16 Reserved

DEPARTMENT NOTIFICATION OF DISEASES

- 64.17(163) Notification of chief of animal industry
- 64.18 to 64.22 Reserved

RABIES CONTROL

- 64.23(163) Rabies—exposed animals
- 64.24(163) Rabies quarantine
- 64.25(351) Control and prevention of rabies
- 64.26 to 64.29 Reserved

SCABIES OR MANGE CONTROL

- 64.30(163) Scabies or mange quarantine
- 64.31 Reserved

DISEASE CONTROL AT FAIRS AND EXHIBITS

- 64.32(163) State fairgrounds—disinfection of livestock quarters
- 64.33(163) County fairs—disinfection of livestock quarters
- 64.34(163) Health requirements for exhibition of livestock, poultry and birds at the state fair, district shows and exhibitions
- 64.35(163) Health requirements for exhibition of livestock, poultry and birds at exhibitions
- 64.36 and 64.37 Reserved

DISEASE CONTROL BY CONVEYANCES

- 64.38(163) Transportation companies—disinfecting livestock quarters
- 64.39(163) Livestock vehicles—disinfection
- 64.40 Reserved

INTRASTATE MOVEMENT OF LIVESTOCK

- 64.41(163) General
- 64.42(163) Veterinary inspection
- 64.43(163) Swine
- 64.44 to 64.46 Reserved

BRUCELLOSIS

- 64.47(163) Definitions as used in these rules
- 64.48 Reserved
- 64.49(163) Certified brucellosis-free herd
- 64.50(163) Restraining animals
- 64.51(163) Quarantines
- 64.52(163) Identification of bovine animals
- 64.53(163) Cleaning and disinfection
- 64.54(163) Disposal of reactors
- 64.55(163) Brucellosis tests and reports
- 64.56(163) Suspect animals designated as reactors
- 64.57(163) Indemnity not allowed
- 64.58(163) Area testing

64.59 to 64.62 Reserved

BOVINE BRUCELLOSIS

64.63(164) Back tagging in bovine brucellosis control
 64.64(164) Fee schedule
 64.65(163) Definitions
 64.66 Reserved

ERADICATION OF SWINE BRUCELLOSIS

64.67(163A) Brucellosis test
 64.68(163A) Veterinarians to test
 64.69 and 64.70 Reserved
 64.71(163A) Fee schedule
 64.72 Reserved

ERADICATION OF BOVINE TUBERCULOSIS

64.73(163) Tuberculin tests classified
 64.74(163) Acceptance of intradermic test
 64.75(163) Adoption of intradermic test
 64.76(163) Ophthalmic test
 64.77(163) Tuberculin test deadline
 64.78(163) Health certificate
 64.79(163) Ear tags
 64.80(163) Cattle importation
 64.81(163) Tuberculin reactors
 64.82(163) Steers—testing
 64.83(163) Female cattle—testing
 64.84(163) Certificates and test charts
 64.85(163) Slaughtering reactors
 64.86(163) Agriculture tuberculin rules
 64.87(163) “Tuberculosis-free accredited herd” defined
 64.88(163) Retesting
 64.89(163) Accredited herd
 64.90(163) Selection of cattle for tuberculin tests
 64.91(163) Identification for test
 64.92(163) Removing cattle from herd
 64.93(163) Milk
 64.94(163) Sanitary measures
 64.95(163) Interstate shipment
 64.96(163) Reactors—removal
 64.97(163) Certificate
 64.98(163) Violation of certificate
 64.99(163) Tuberculin—administration
 64.100(163) Sale of tuberculin
 64.101(165) Fee schedule
 64.102 and 64.103 Reserved

CHRONIC WASTING DISEASE (CWD)

64.104(163) Definitions
 64.105(163) Supervision of the cervid CWD surveillance identification program
 64.106(163) Surveillance procedures
 64.107(163) Official cervid tests
 64.108(163) Investigation of CWD affected animals identified through surveillance
 64.109(163) Duration of quarantine

64.110(163)	Herd plan
64.111(163)	Identification and disposal requirements
64.112(163)	Cleaning and disinfecting
64.113(163)	Methods for obtaining certified CWD cervid herd status
64.114(163)	Recertification of CWD cervid herds
64.115(163)	Movement into a certified CWD cervid herd
64.116(163)	Movement into a monitored CWD cervid herd
64.117(163)	Recognition of monitored CWD cervid herds
64.118(163)	Recognition of certified CWD cervid herds
64.119 to 64.132	Reserved

ERADICATION OF SWINE TUBERCULOSIS

64.133(159)	Indemnity
64.134(159)	Fee schedule
64.135 to 64.146	Reserved

PSEUDORABIES DISEASE

64.147(163,166D)	Definitions. As used in these rules:
64.148 to 64.150	Reserved
64.151(163,166D)	Quarantines
64.152(163,166D)	Nondifferentiable pseudorabies vaccine disapproved
64.153(166D)	Pseudorabies disease program areas
64.154(163,166D)	Identification
64.155(163,166D,172B)	Certificates of inspection
64.156(166D)	Noninfected herds
64.157(166D)	Herd cleanup plan for infected herds (eradication plan)
64.158(166D)	Feeder pig cooperator plan for infected herds
64.159(166D)	Herds of unknown status
64.160(166D)	Approved premises
64.161(166D)	Sales to approved premises
64.162(166D)	Certification of veterinarians to initiate approved herd cleanup plans and approved feeder pig cooperator plan agreements and fee basis
64.163(166D)	Nondifferentiable pseudorabies vaccine disapproved
64.164 to 64.169	Reserved

PARATUBERCULOSIS (JOHNE'S) DISEASE

64.170(165A)	Definitions
64.171(165A)	Supervision of the Johne's disease program
64.172(165A)	Official Johne's disease tests
64.173(165A)	Vaccination allowed
64.174(165A)	Herd plan
64.175(165A)	Identification and disposal requirements
64.176(165A)	Segregation, cleaning, and disinfecting
64.177(165A)	Intrastate movement requirements
64.178(165A)	Import requirements
64.179 to 64.184	Reserved

LOW PATHOGENIC AVIAN INFLUENZA (LPAI)

64.185(163)	Definitions
64.186(163)	Supervision of the low pathogenic avian influenza program
64.187(163)	Surveillance procedures
64.188(163)	Official LPAI tests
64.189(163)	Investigation of LPAI affected poultry identified through surveillance
64.190(163)	Duration of quarantine

- 64.191(163) Flock plan
- 64.192(163) Cleaning and disinfecting
- 64.193 to 64.199 Reserved

SCRAPIE DISEASE

- 64.200(163) Definitions
- 64.201(163) Supervision of the scrapie eradication program
- 64.202(163) Identification
- 64.203(163) Restrictions on the removal of official identification
- 64.204(163) Records
- 64.205(163) Responsibility of persons handling animals in commerce to ensure the official identification of animals
- 64.206(163) Veterinarian's responsibilities when identifying sheep or goats
- 64.207(163) Flock plans
- 64.208(163) Certificates of Veterinary Inspection
- 64.209(163) Requirements for shows and sales
- 64.210(163) Movement restrictions for animals and flocks
- 64.211(163) Approved terminal feedlots

CHAPTER 65

ANIMAL AND LIVESTOCK IMPORTATION

- 65.1(163) Definitions
- 65.2(163) Pre-entry permits
- 65.3(163) General requirements and limitations
- 65.4(163) Cattle and bison
- 65.5(163,166D) Swine
- 65.6(163) Goats
- 65.7(163) Sheep
- 65.8(163) Equine
- 65.9(163) Cervidae
- 65.10(163) Dogs and cats
- 65.11(163) Poultry, domestic fowl, and hatching eggs
- 65.12(163) Swine production health plan (SPHP)
- 65.13(163) Penalties

CHAPTER 66

LIVESTOCK MOVEMENT

- 66.1(163) Definitions and permits
- 66.2(163) Animal health sanitation and record-keeping requirements
- 66.3(163) Duties and responsibilities of the livestock market management
- 66.4(163) Duties and responsibilities of the livestock market veterinary inspector
- 66.5(163) Classification of livestock markets and permitholders
- 66.6(163) Requirements for state-federal (specifically) approved markets
- 66.7(163) Requirements for sale of all bovine animals
- 66.8(163) Testing
- 66.9(163) Order of sale through auction markets
- 66.10(163) Releasing cattle
- 66.11(163,172B) Movement of livestock within the state
- 66.12(189,189A) Movement of food-producing animals and their products into the state
- 66.13(163,202C) Feeder pig dealer bonding/letter of credit requirement and claims procedures
- 66.14(163) Intrastate movement requirements
- 66.15 to 66.19 Reserved
- 66.20(163) Revocation or denial of permit

CHAPTER 67
ANIMAL WELFARE

67.1(162)	Definitions
67.2(162)	Animals included in rules
67.3(162)	Housing facilities and primary enclosures
67.4(162)	General care and husbandry standards
67.5(162)	Transportation
67.6(162)	Purchase, sale, trade and adoption
67.7(162)	Boarding kennels, commercial kennels, animal shelters, pounds and dealers
67.8(162)	Dog day cares
67.9(162)	In-home facilities
67.10(162)	Rescues
67.11(162)	Foster oversight organizations and foster care homes
67.12(162)	Public health
67.13(162)	Access, seizure and impoundment
67.14(162)	Loss of license or denial of license
67.15(162)	Applicability to commercial establishments with federal licenses
67.16(162)	Acceptable forms of euthanasia
67.17(162)	Greyhound breeder or farm fee
67.18(162)	Research facilities

CHAPTER 68
DAIRY

68.1(192,194)	Definitions
68.2(192)	Licenses and permits required
68.3	Reserved
68.4(192)	Certification of personnel
68.5(190,192,194)	Milk tests
68.6(190,192,194)	Test bottles
68.7 and 68.8	Reserved
68.9(192,194)	Tester's license
68.10(192,194)	Contaminating activities prohibited in milk plants
68.11(192,194)	Suspension of dairy farm permits

GRADE A MILK

68.12(192)	Milk standards
68.13(192,194)	Public health service requirements
68.14(190,192,194,195)	Laboratories

GRADE B MILK

68.15(192,194)	Milk standards
68.16(194)	Legal milk
68.17(194)	New producers
68.18(194)	Testing and exclusion of Class III milk
68.19(194)	Unlawful milk
68.20(194)	Price differential
68.21(194)	Penalties for plants and producers
68.22(192,194)	Farm requirements for milk for manufacturing
68.23 to 68.25	Reserved
68.26(190,192,194)	Tests for abnormal milk
68.27(192,194)	Standards for performing farm inspections

DAIRY FARM WATER

68.28 to 68.34	Reserved
----------------	----------

68.35(192)	Dairy farm water supply
68.36(192)	Antibiotic testing
68.37(192,194)	Milk truck approaches
68.38 and 68.39	Reserved
	MILK TANKER, MILK HAULER, MILK GRADER, CAN MILK TRUCK BODY
68.40(192)	Definitions
68.41(192)	Bulk milk tanker license required
68.42(192)	Bulk milk tanker construction
68.43(192)	Bulk milk tanker cleaning and maintenance
68.44(192)	Bulk tanker sanitization
68.45(192)	Bulk milk tanker cleaning facility
68.46(192)	Bulk milk tanker cleaning tag
68.47(192)	Dairy plant, receiving station or transfer station records
68.48(192)	Milk hauler license required
68.49	Reserved
68.50(192)	Supplies required for milk collection and sampling
68.51(192)	Milk hauler sanitization
68.52(192)	Examining milk by sight and smell
68.53(192)	Milk hauler hand washing
68.54(192)	Milk temperature
68.55(192)	Connecting the milk hose
68.56(192)	Measuring the milk in the bulk tank
68.57(192)	Milk sample for testing
68.58(192)	Milk collection record
68.59(192)	Loading the milk from the bulk tank to the milk tanker
68.60(192)	Milk samples required for testing
68.61(192)	Bulk milk sampling procedures
68.62(192)	Temperature control sample
68.63(192)	Producer sample identification
68.64(192)	Care and delivery of producer milk samples
68.65(192)	Milk sample carrying case
68.66(192)	Bulk milk delivery
68.67(192)	False samples or records
68.68(192)	Violations prompting immediate suspension
68.69(192)	Milk grader license required
68.70(192)	New milk grader license applicant
68.71(192,194)	Can milk truck body

CHAPTER 69

MILK ROOM AND BULK TANKS FOR MANUFACTURING MILK

69.1(192)	Milk room
69.2(192)	Drainage
69.3(192)	Walls and ceilings
69.4(192)	Milk room windows
69.5(192)	Doors
69.6(192)	Ventilation
69.7(192)	Bulk tank location
69.8(192)	Hose port
69.9(192)	Safety regulations
69.10(192)	Properly located tank

CHAPTER 70

Reserved

CHAPTER 71

STANDARDS FOR DAIRY PRODUCTS

71.1(190)	Dairy products
71.2(189,210)	Requirements for packaging and labeling
71.3(210)	Requirements for the method of sale of commodities
71.4(210)	Requirements for unit pricing
71.5(189,190)	Flavors
71.6(190)	Standard for light butter

CHAPTERS 72 to 75

Reserved

CHAPTER 76

MEAT AND POULTRY INSPECTION

76.1(189A)	Federal Wholesome Meat Act regulations adopted
76.2(189A)	Federal Wholesome Meat Act regulations adopted
76.3(189A)	Federal Poultry Products Inspection Act regulations adopted
76.4(189A)	Inspection required
76.5(189A)	Custom/exempt facilities sanitation standard operating procedures
76.6(189A)	Forms and marks
76.7(189A)	Products to be marked with official marks
76.8(189A,167)	Registration
76.9(189A,167)	Dead, dying, disabled or diseased animals
76.10(189A)	Denaturing and identification of livestock or poultry products not intended for use as human food
76.11(189A,167)	Transportation of decharacterized inedible meat or carcass parts
76.12(189A)	Records
76.13(189A)	Voluntary inspections of exotic animals
76.14(189A)	Federal Wholesome Meat Act regulations adopted for the regulation of farm deer

CHAPTER 77

DANGEROUS WILD ANIMALS

77.1(717F)	Definitions
77.2(717F)	Prohibitions
77.3(717F)	Continued ownership—requirements of the individual
77.4(717F)	Continued ownership—insurance required
77.5(717F)	Continued ownership—electronic identification device
77.6(717F)	Continued ownership—registration form
77.7(717F)	Continued ownership—registration fee
77.8(717F)	Continued ownership—records required
77.9(717F)	Continued ownership—enclosure required
77.10(717F)	Continued ownership—signs required
77.11(717F)	Escape notification required
77.12(717F)	Relinquishment
77.13(717F)	Seizure, custody and disposal
77.14(717F)	Exemptions

CHAPTERS 78 to 84

Reserved

CHAPTER 85
WEIGHTS AND MEASURES

- 85.1(215) Definitions
85.2(189,215) Weights and measures
85.3 to 85.9 Reserved

WEIGHTS AND SCALES

- 85.10(215) Scale design
85.11(215) Scale pit
85.12(215) Pitless scales
85.13(215) Master weights
85.14(215) Provision for sealing coin slot
85.15(215) Lengthening of platforms
85.16(215) Accessibility for testing purposes
85.17(215) Wheel-load weighers and axle-load scales
85.18 and 85.19 Reserved

MEASURES

- 85.20(214A,208A) Motor fuel and antifreeze tests and standards
85.21(215) Tolerances on petroleum products measuring devices
85.22(215) Meter adjustments and tagging
85.23(215) Servicer's license fee
85.24(215) Recording elements
85.25(215) Air eliminator
85.26(215) Delivery outlets
85.27(215) LP-gas delivery
85.28(215) LP-gas meter registration
85.29(214A,215) Advertisement of the price of liquid petroleum products for retail use
85.30(214A,215) Gallonage determination for retail sales
85.31(214,214A,215) Blender pumps
85.32 to 85.39 Reserved

MOISTURE-MEASURING DEVICES

- 85.40(215A) Testing devices
85.41(215A) Rejecting devices
85.42(215,215A) Specifications and standards for moisture-measuring devices
85.43(215) Testing high-moisture grain
85.44 to 85.49 Reserved

TESTING AND ACCURACY

- 85.50(452A) Electric vehicle charging stations

CHAPTER 86
E-15 ACCESS STANDARD

- 86.1(214A) Definitions
86.2(214A) E-15 access standard—retail dealer compliance
86.3(214A) Incompatible infrastructure waivers
86.4(214A) Small retail motor fuel site exemption
86.5(214A) Terminable events

CHAPTERS 87 to 89
Reserved

CHAPTER 90
STATE LICENSED WAREHOUSES
AND WAREHOUSE OPERATORS

90.1(203C)	Application of rules
90.2(203C)	Definitions
90.3(203C)	Types of products to be warehoused
90.4(203C,203D)	Application for a warehouse operator license
90.5(203C)	Warehouse operator license
90.6(203C)	Posting of license
90.7(203C)	Renewal, expiration and reinstatement of license—payment of license fee
90.8(203C)	Financial statements
90.9(203C)	Bonds and irrevocable letters of credit
90.10(203C)	Insurance
90.11(203C)	Notice to the warehouse bureau
90.12(203C)	Issuance of warehouse receipts
90.13(203C)	Cancellation of warehouse receipts
90.14(203C)	Lost or destroyed receipt
90.15(203C)	Warehouse receipts
90.16(203C)	Tariffs
90.17(203C)	Records
90.18(203C)	Adjustment of records
90.19(203C)	Shrinkage due to moisture
90.20(203C)	Monthly grain statements
90.21(203C)	Grain stored in another warehouse
90.22(203C)	Warehouse operator's obligation and storage
90.23(203C)	Storing of products
90.24(203C)	Facilities
90.25(203C)	Maintenance of storage facilities
90.26(203C)	Temporary grain storage facilities
90.27(203C)	Emergency ground pile storage space
90.28(203C)	Polyethylene (polyvinyl) bag storage space
90.29(203C)	Prioritization of inspections of warehouse operators
90.30(203C)	Department of agriculture and land stewardship enforcement procedures
90.31(203C)	Review proceedings

CHAPTER 91
LICENSED GRAIN DEALERS

91.1(203)	Application of rules
91.2(203)	Definitions
91.3(203,203D)	Application for a grain dealer license
91.4(203)	Grain dealer license not transferable
91.5(203)	Posting of license
91.6(203)	Surrender of license
91.7(203)	Renewal, expiration and reinstatement of license—payment of license and indemnity fund fees
91.8(203)	Financial statements
91.9(203)	Bonds and irrevocable letters of credit
91.10(203)	Payment
91.11(203)	Books and records
91.12(203)	Assignment of contracts
91.13(203)	Filing of monthly grain statement and reports
91.14(203)	Notice to the warehouse bureau

91.15(203)	Shrinkage due to moisture
91.16(203)	Requirements for Class 2 licensees
91.17(203)	Requirements for licensees authorized to issue credit-sale contracts
91.18(203)	Department of agriculture and land stewardship enforcement procedures
91.19(203)	Review proceedings
91.20(203)	Prioritization of inspections of grain dealers
91.21(203)	Claims against credit-sale contract bond
91.22(203)	Electronic grain contracts
91.23(203)	Electronic grain contract providers and provider agreements
91.24(203)	Electronic grain contract users and user agreements
91.25(203)	Electronic grain contracts—issuance and form
91.26(203)	Security of a provider's electronic central filing system or a licensee's electronic database

CHAPTER 92

PARTICIPATION IN GRAIN INDEMNITY FUND

92.1(203D)	Mandatory participation in fund
92.2(203D)	Required fees
92.3(203D)	New license applicants
92.4(203D)	Due date for payment of the per-bushel and participation fees
92.5(203D)	Penalty for delinquent submission of per-bushel and participation fees
92.6(203D)	Penalty for delinquent payment of per-bushel fee discovered during examination

CHAPTER 93

GRAIN INDEMNITY FUND BOARD—ORGANIZATION AND OPERATIONS

93.1(203D)	Location
93.2(203D)	The board
93.3(203D)	Authority of the board
93.4(203D)	Meetings
93.5(203D)	Minutes
93.6(203D)	Board decisions
93.7(203D)	Records

CHAPTER 94

CLAIMS AGAINST THE GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND

94.1(203D)	Definitions
94.2(203D)	By whom claims can be made
94.3(203D)	Procedure for filing claims
94.4(203D)	Time limitations
94.5(203D)	Claims by depositors where bureau is receiver
94.6(203D)	Notice of claims
94.7(203D)	Report by bureau
94.8(203D)	Determination of claims
94.9(203D)	Appeal from determination
94.10(203D)	Payment of valid claims—conflicting interests

CHAPTER 95

CIVIL PENALTIES

95.1(203,203C)	Definitions
95.2(203,203C)	Grain industry peer review panel
95.3(203,203C)	Organization and location
95.4(203,203C)	Membership

95.5(203,203C)	Staff
95.6(203,203C)	Meetings
95.7(203,203C)	Criteria for assessing civil penalties
95.8(203,203C)	Notice of civil penalty assessment—informal settlement
95.9(203,203C)	Panel review
95.10(203,203C)	Scope of panel review
95.11(203,203C)	Panel response
95.12(203,203C)	Civil penalty assessment
95.13(203,203C)	Judicial assessment
95.14(203,203C)	Civil penalty payment

CHAPTER 96

HEMP

96.1(204)	Definitions
96.2(204)	Licensing
96.3(204)	National criminal history record check
96.4(204)	Licensee reports
96.5(204)	Fees
96.6(204)	Annual review of licensees to ensure licensure compliance
96.7(204)	Sampling procedures for official testing of hemp for THC content
96.8(204)	Approved testing methods of hemp for THC content
96.9(204)	Harvesting timing
96.10(204)	Order of destruction
96.11(204)	Negligent violations
96.12(204)	Negligent violation program
96.13(204)	State plan

CHAPTER 50

WOMEN, INFANTS, AND CHILDREN/FARMERS' MARKET NUTRITION PROGRAM AND
SENIOR FARMERS' MARKET NUTRITION PROGRAM

21—50.1(159,175B) Authority and scope. This chapter establishes procedures to govern the administration of a farmers' market special supplemental food program by the department of agriculture and land stewardship for implementing the applicable agreement and guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service Agreement, in accordance with Iowa Code chapter 175B.

Information may be obtained by contacting the Agricultural Diversification and Market Development Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, telephone 515.281.5321.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.2(159,175B) Severability. If any provision of a rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are severable.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.3(159,175B) Definitions. For the purposes of this chapter:

"Application" means a request made by an individual to the department for vendor certification or farmers' market/farmstand authorization in the Iowa FMNP on a form provided by the agricultural diversification and market development bureau of the department.

"Authorized CSA" means a community supported agriculture program located within the state of Iowa that is authorized by the department for the exchange of SFMNP funds for eligible foods.

"Authorized farmers' market" means a farmers' market site located within the state of Iowa authorized by the department for the exchange of vouchers for eligible foods.

"Authorized farmstand" means a farmstand site located within the state of Iowa authorized by the department for the exchange of vouchers for eligible foods.

"Certified vendor" means an individual who has met all Iowa FMNP conditions as outlined by the department and who is guaranteed payment on all vouchers accepted, provided compliance is maintained by that individual regarding all Iowa FMNP rules and procedures as outlined in the vendor certification handbook. Individuals who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be certified to participate in the Iowa FMNP, except individuals employed by a farmer otherwise qualified under these rules.

"Certified vendor identification sign" means department-issued signage that shall be clearly displayed by the certified vendor at all times the vendor accepts or intends to accept vouchers in an authorized farmers' market/farmstand. Signs shall remain the sole property of the department with forfeiture by the certified vendor to the department in the event of disqualification or suspension.

"Certified vendor number" means a unique identification number issued for a designated period by the department and assigned to an individual whom the department has identified as a certified vendor. The certified vendor number shall be affixed to the certified vendor identification sign. An individual shall be assigned no more than one certification number for any designated period.

"Certified vendor stall" means all of the area in an authorized farmers' market that is dedicated to a certified vendor for the purpose of displaying and offering product for sale. Certified vendors are permitted only one certified vendor stall per market. The only exceptions shall be:

1. If the certified vendor elects not to promote any of the area as Iowa FMNP for an entire farmers' market day; or
2. If the certified vendor elects to exclude a portion of the space by maintaining a distance of separation from the certified vendor stall by a minimum of two farmers' market vendors who are neither affiliated with nor related to the certified vendor and who are actively participating in the farmers' market on the given day. An excluded area shall be operated independently of the certified vendor stall.

These exceptions shall hold only when the vendor neither accepts nor intends to accept vouchers.

“*Certified vendor stamp*” means a department-issued stamp of the certified vendor number.

“*Days*” means calendar days.

“*Designated distribution site*” means a site authorized by the department for distribution of vouchers by the local agency.

“*Distribution*” means the process outlined by the department and the means by which local agencies actually dispense vouchers to eligible recipients.

“*Eligible foods*” means fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. Locally produced, unpasteurized, pure honey is an eligible food only for the recipients of SFMNP benefits.

“*Farmers’ market*” means a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common marketplace for a group of farmers to sell locally grown fresh produce directly to consumers, and where the majority of products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income.

“*Farmstand*” means a consistent site throughout the season, in which a single individual farmer sells the farmer’s produce directly to consumers.

“*Fresh produce*” means fruits and vegetables that have not been processed in any manner. This term does not include such items as dried fruits and vegetables, potted or dried herbs, wild rice, nuts of any kind including raw nuts, popcorn, fruit or vegetable plants/seedlings, dried beans/peas, seeds/grains, flowers, maple syrup, cider, eggs, meat, cheese, and seafood.

“*Iowa FMNP*” means Iowa farmers’ market nutrition program and refers to both WIC FMNP and SFMNP.

“*Local agency*” means a nonprofit entity that certifies eligible recipients, issues Iowa FMNP vouchers, arranges for the distribution of eligible foods through CSA programs, or provides nutritional education or information on operational aspects of the Iowa FMNP to recipients and that has entered into a contract with the department.

“*Locally grown*” means produce or honey that has a traceable point of origin either within Iowa or in a neighboring state in a county adjacent to Iowa’s border.

“*Posted hours and days*” means the operational time frames in which Iowa FMNP vouchers are accepted stated in applications for authorization submitted by a representative, who has the legal authority to obligate the farmers’ market/farmstand/CSA, which include a beginning and an ending time and date for each year of operation.

“*Proxy*” means an individual authorized by an eligible recipient to act on the recipient’s behalf, including application for, receipt of, or use of vouchers or acceptance of SFMNP foods provided through a CSA program as long as the benefits are ultimately received by the recipient. Minors shall not be used as proxies.

“*Recipient*” means a person chosen by the Iowa department of agriculture and land stewardship to receive Iowa FMNP benefits.

1. To receive WIC FMNP benefits, such person must be a woman, infant over four months of age, or child who receives benefits under the WIC program or is on the waiting list to receive benefits under the WIC program.

2. To receive SFMNP benefits, such person must meet the senior eligibility criteria of the SFMNP in Part 249.6 of Subpart C of Title 7 Code of Federal Regulations as of May 26, 2005.

“*Season*” means a clearly delineated period of time during a given year that has a beginning date and ending date, as specified by the department, which correlates with a major portion of the harvest period for locally grown fresh produce.

“*Secretary*” means the secretary of agriculture for the state of Iowa.

“*Service area*” means the geographic area that encompasses all of the designated distribution sites and authorized farmers’ markets, farmstands, and CSAs within Iowa for a designated period.

“*SFMNP*” means the senior farmers’ market nutrition program.

“*Shareholder*” means an SFMNP recipient for whom a full or partial share in a community supported agriculture program has been purchased by the department, and who receives SFMNP benefits in the form of actual eligible foods rather than vouchers that must be exchanged for eligible foods at farmers’ markets or farmstands.

“*USDA-FNS*” means the United States Department of Agriculture-Food and Nutrition Service.

“*Vendor certification handbook*” means a publication by the department that is based on USDA-FNS regulations and guidelines, addresses all Iowa FMNP rules and procedures applicable to a certified vendor, and provides the basis for vendor training. A copy of the publication shall be issued to each individual after certification training. New editions supersede all previous editions.

“*Voucher*” means an instrument issued by the department to recipients that is redeemable only for eligible foods from certified vendors at authorized farmers’ markets/farmstands with a limited redeemable period that directly correlates to the season designated by the department.

“*WIC*” means the Special Supplemental Food Program for Women, Infants and Children, as administered by the Iowa department of health and human services.

“*WIC FMNP*” means the women, infants, and children farmers’ market nutrition program.
[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.4(159,175B) Administration and agreements.

50.4(1) The program shall be administered by the secretary or by the secretary’s designee.

50.4(2) The department shall maintain all conditions as outlined in the farmers’ market nutrition program/senior farmers’ market nutrition program state plan submitted to USDA-FNS.
[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.5(159,175B) Distribution of benefits.

50.5(1) Iowa department of health and human services WIC client screening processes and records shall provide the basis for identifying recipients eligible for receipt of WIC FMNP vouchers. The department may contract with local agencies to certify eligible recipients and distribute SFMNP vouchers. Senior recipient eligibility criteria shall conform to Part 249.6 of Subpart C of Title 7 Code of Federal Regulations as of May 26, 2005.

50.5(2) Local agencies shall distribute vouchers to recipients in the manner specified by the department in the procedures guide. Local agency services shall include, but not be limited to, ensuring that:

- a. Each recipient is issued vouchers during each distribution as authorized by the department.
- b. The voucher serial numbers issued to the recipient correspond to the numbers in the distribution registry.
- c. A proxy is allowed to act on behalf of a recipient.
- d. Each recipient is provided a thorough explanation of program guidelines and recipient responsibility as outlined by the department.
- e. All Iowa FMNP support materials are put into use as outlined by the department.
- f. Accurate and complete records of all related Iowa FMNP activities in the possession of a local agency are maintained and retained for a minimum of three years following the date of submission of the final expenditure report for the period to which the report pertains. In the event of litigation or audit findings, the records shall be retained until all issues arising from such actions have been resolved or until the end of the prescribed retention period, whichever is later.
- g. All agency records pertaining to this program are made available for inspection to representatives of USDA, the Comptroller General of the United States, the state auditor, the department, and other agencies working under contract with the department as necessary, at any time during normal business hours, and as frequently as is deemed necessary for inspection and audit. Otherwise, confidentiality of personal information on all recipients participating in the program shall be maintained at all times.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.6(159,175B) Recipient responsibilities. Recipients shall be responsible for, but not limited to, all of the following:

1. Qualifying under Iowa FMNP guidelines.
2. Ensuring that the certified vendor is present when exchanging vouchers for eligible foods and surrendering voucher(s) to the certified vendor at the time of use.
3. Using vouchers only to purchase eligible foods from certified vendors who display certified vendor identification signs at authorized farmers' markets/farmstands.
4. Redeeming vouchers on or before the expiration date printed on the face of the voucher, or surrendering all claim to the value of vouchers that remain unredeemed.
5. Ensuring vouchers received are not assigned to any other party other than to a proxy.
6. Reporting violations or problems to the department or the local agency.
7. Reporting all incidents of lost or stolen vouchers to the local agency.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.7(159,175B) Recipient noncompliance sanctions. Sanctions for violations of Iowa FMNP procedures and rules applicable to an Iowa FMNP recipient are based on the severity and nature of the violations observed and the recipient's history of violations.

50.7(1) A warning may be the sanction for minor violations such as, but not limited to:

- a. Failing to ensure the certified vendor is present when exchanging vouchers for eligible foods.
- b. Purchasing eligible foods from noncertified vendors.
- c. Purchasing eligible foods from certified vendors not displaying a certified vendor identification sign or not at an authorized farmers' market/farmstand/CSA.

50.7(2) A disqualification may be the sanction for severe or repeated violations such as, but not limited to:

- a. Exchanging Iowa FMNP vouchers for anything other than eligible foods.
- b. Redeeming or attempting to redeem Iowa FMNP vouchers to receive payment.
- c. Dual participation resulting from intentional misrepresentation.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.8(159,175B) Farmers' market, farmstand, and community supported agriculture (CSA) authorization.

50.8(1) Authorized farmers' markets shall:

a. Annually submit an application for farmers' market authorization in a manner outlined by the department. The application shall be submitted by a representative with the legal authority to obligate the farmers' market and serve as evidence of willingness by a person(s) associated with the farmers' market to implement all Iowa FMNP requirements.

b. Have a minimum of three eligible certified vendors or certified vendor applicants participate in the farmers' market for at least nine consecutive weeks. The names of these three vendors shall be included in the application for authorization.

c. Maintain posted hours and days of operation throughout the season, specifically detailed to cover any anticipated fluctuations in operations over the season.

d. Actively operate for at least two hours on the same day, on at least a biweekly basis, for at least nine consecutive weeks, except that pop-up farmers' markets managed by or with the support of an authorized farmers' market may operate less frequently and for less than two hours. For example, an authorized market operates at the county fair for a single day. An application for authorization must be submitted by the pop-up market and must demonstrate shared management with, or a letter of support from, the primary authorized farmer's market.

e. Maintain accessibility and consistency of the farmers' market site throughout the season.

f. Notify the department if the farmers' market changes the posted hours and days of operation prior to the end of the authorization period.

50.8(2) Authorized farmstands shall:

a. Annually submit an application for farmstand authorization in a manner outlined by the department. The application shall be submitted by a representative with the legal authority to obligate

the farmstand and serve as evidence of willingness by a person(s) associated with the farmstand to implement all Iowa FMNP requirements.

b. Be operated by a certified vendor. The certified vendor may submit an application for farmstand authorization concurrently with a certified vendor application.

c. Maintain posted hours and days of operation to be maintained throughout the season, specifically detailed to cover any anticipated fluctuations in operations over the season.

d. Actively operate for at least two hours on the same day, on at least a biweekly basis, for at least nine consecutive weeks, except that authorized farmstands may operate for less than nine consecutive weeks if their eligible food crops have a limited growing season.

e. Maintain accessibility and consistency of the farmstand site throughout the season.

f. Be staffed during posted hours and days of operation.

g. Notify the department if the farmstand changes the posted hours and days of operation prior to the end of the authorization period.

h. Qualify as a permanent farmstand or a moveable farmstand.

(1) A permanent farmstand shall be operated from a permanent building that is primarily used for the sale of eligible foods or other farm products, is not moveable, and remains in the same location year-round. The building shall have at least a roof, sidewalls, and a solid floor to protect product and people. Wood post frame, stud frame, rigid-frame metal, and concrete block construction are suitable farmstand construction. The building must be maintained in a manner consistent with standards generally accepted for this type of business.

(2) A farmstand that does not meet the structural requirements of a permanent farmstand or a certified vendor stall not located at an authorized farmers' market may be considered a moveable farmstand. If three or more applications for moveable farmstands located at a nonauthorized farmers' market are received by the department, the applicants may be required to meet the authorization requirements of a farmers' market. A moveable farmstand shall not operate concurrently with the posted hours and days of any authorized farmers' market within five miles unless the farmstand is located at the certified vendor's residence or primary grow site or has operated from a structure at the same location for a minimum of five consecutive years.

The Department may authorize a limited number of moveable farmstands, which may operate for less than two hours and less than nine consecutive weeks and are not subject to distance limitations from authorized farmers' markets. A primary consideration for authorization shall be how these moveable farmstands will improve Iowa FMNP participants' access to eligible foods and redemption of Iowa FMNP vouchers. These farmstands may be located at sites readily accessible by Iowa FMNP participants, including but not limited to WIC Clinics, senior housing facilities, community centers, congregate meals sites, and Iowa FMNP distribution sites. Once authorized, these farmstands must provide written notification to the local WIC and senior agencies of the service area to communicate the location, hours, and days of operation for FMNP.

50.8(3) The department may limit the number of CSAs that may become authorized under Iowa FMNP. CSAs will not be authorized for WIC FMNP. An authorized CSA shall:

a. Annually submit an application for CSA authorization in a manner outlined by the department. The application shall be submitted by a representative with the legal authority to obligate the CSA and serve as evidence of willingness by a person(s) associated with the CSA to implement all Iowa FMNP requirements.

b. Be operated by a certified vendor. The certified vendor may submit an application for CSA authorization concurrently with a certified vendor application.

c. Have a designated distribution site where eligible foods are distributed to senior participants.

d. Provide such information as the department may require for its periodic reports to USDA-FNS.

e. Ensure that SFMNP recipients receive only eligible foods.

f. Provide eligible foods to SFMNP shareholders at or below the price charged to other customers.

g. Ensure that the shareholders receive eligible foods that are of equitable value and quantity to their share.

- h.* Ensure that all funds from the department are used for planting of crops for SFMNP shareholders.
- i.* Provide to the department access to a tracking system that determines the value of the eligible foods provided and the remaining value owed to each SFMNP shareholder.
- j.* Ensure that SFMNP shareholders/authorized representatives provide written acknowledgment of receipt of eligible foods.
- k.* Accept training on SFMNP procedures and provide training to farmers and any employees with SFMNP responsibilities for such procedures.
- l.* Agree to be monitored for compliance with SFMNP requirements, including both overt and covert monitoring.
- m.* Be accountable for actions of farmers or employees in the provision of eligible foods and related activities.
- n.* Offer SFMNP shareholders the same courtesies as other customers.
- o.* Notify the department immediately when the CSA program is experiencing a problem with its crops and may be unable to provide SFMNP shareholders with the complete amount of eligible foods agreed upon between the CSA and the department.
- p.* Comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Department of Agriculture regulations on nondiscrimination contained in Parts 15, 15a and 15b and FNS instructions as outlined in Part 249.7 of Title 7 Code of Federal Regulations, as of May 26, 2005.
- q.* Notify the department if any CSA program ceases operation prior to the end of the authorization period.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.9(159,175B) Vendor certification and eligibility.

50.9(1) Vendor certification shall not be in effect and vouchers shall not be accepted until the applicant receives a certified vendor identification sign and a notice of certification.

50.9(2) Vendor certification expires at the end of each year of issuance. Individuals must annually apply for and receive vendor certification in order to participate in Iowa FMNP.

50.9(3) The department does not limit the number of vendors who may become certified under Iowa FMNP.

50.9(4) The department issues a single certified vendor number for each separate and distinct agricultural operation.

50.9(5) To be eligible to apply for certification, a vendor must:

- a.* Reside and grow eligible foods within Iowa or in a neighboring state in a county adjacent to Iowa's border.
- b.* Be at least 18 years of age or older.
- c.* Participate in training on Iowa FMNP rules and procedures conducted by department staff in a manner and frequency specified by the department.
- d.* Submit a vendor/department agreement signed by a representative with legal authority to obligate the vendor or agricultural operation. Agreements may not exceed three years.
- e.* Indicate an intent to participate in one or more authorized farmers' markets/farmstands.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.10(159,175B) Certified vendor obligations. A certified vendor shall be responsible for, at a minimum, all of the following:

50.10(1) Beginning each market day with at least 20 percent of all products for sale or display in a certified vendor stall as eligible foods, having personally grown a majority of the eligible foods for sale or display.

- a.* When eligible foods are purchased for resale from another producer or wholesaler, the certified vendor must maintain valid receipts containing the following information: the name, address and telephone number of the producer/wholesaler; date of purchase; location of the growing site; and

quantity purchased, itemized by product type. These receipts must be maintained for at least two years from the date of purchase and presented to the department upon request.

b. When nonlocally grown fresh unprepared produce or honey is for sale or display, the certified vendor must display prominent signage declaring the state the product was grown and the statement “not eligible for WIC and Senior FMNP”.

50.10(2) Accepting and redeeming vouchers only for a transaction that takes place between the certified vendor and recipient or proxy at the location, hours, and days of an authorized farmers’ market/farmstand/CSA, only in exchange for eligible foods.

50.10(3) Not transacting vouchers with the vendor’s own business, family, employees, or other individuals reasonably connected with the agricultural operation.

50.10(4) Not redeeming vouchers on behalf of another vendor.

50.10(5) Prominently displaying a certified vendor identification sign only at the location, hours, and days of an authorized farmers’ market/farmstand. The certified vendor identification sign must be removed or covered when the eligible foods are sold out or when the vendor is not conducting Iowa FMNP transactions.

50.10(6) Providing eligible foods to recipients upon receipt of a valid and properly completed voucher. Vouchers that are properly presented must be accepted by certified vendors participating in the Iowa FMNP.

50.10(7) Taking and maintaining possession of and securely storing vouchers accepted as payment for eligible foods to prevent their reuse as payment for eligible foods.

50.10(8) Accepting a voucher as payment for eligible foods only if the voucher is presented on or before the usage expiration date printed on the voucher.

50.10(9) Handling transactions with recipients in the same manner as transactions with all other customers to ensure that Iowa FMNP clients are not exposed to discriminatory practices in any form.

50.10(10) Not collecting state or local taxes on purchases involving vouchers.

50.10(11) Providing eligible foods to recipients at the current price or less than the current price charged to other customers.

50.10(12) Not levying a surcharge based on the use of vouchers by recipients.

50.10(13) Not returning cash or issuing credit in any form to recipients during sales transactions that involve vouchers only. In the event of a single transaction in which a recipient presents a combination of cash and vouchers for the purchase of locally grown fresh produce, cash or credit up to the value of the cash portion of the payment may be given to the recipient. Credits or refunds may not be issued on returned eligible foods that were purchased with vouchers.

50.10(14) Participating in training as the department deems necessary to carry out the intent of Iowa FMNP.

50.10(15) Cooperating with the department in the evaluation of each season by completely and accurately responding to a survey, with resubmission to the department in a specified and timely manner.

50.10(16) Immediately informing the department in the event of loss, destruction, or theft of the certified vendor identification sign so that a replacement may be issued.

50.10(17) Complying with all procedures and rules as herein outlined and as delineated in the department vendor agreement, the certified vendor handbook, and written notices of clarification issued by the department to the vendor.

50.10(18) Complying with the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, United States Department of Agriculture regulations on nondiscrimination contained in Parts 15, 15a and 15b and FNS instructions as outlined in 248.7 and 249.7 of the Title 7 Code of Federal Regulations as of May 26, 2005.

50.10(19) Agreeing to be monitored at farmers’ markets/farmstands and growing sites for compliance with Iowa FMNP requirements, including both overt and covert monitoring, and providing directions to growing sites upon request of department staff.

50.10(20) Not seeking restitution from Iowa FMNP recipients for vouchers not paid by the department.

50.10(21) Paying the department for any vouchers transacted in violation of the Iowa FMNP regulations.

50.10(22) Ensuring that all other persons who act on behalf of the certified vendor at a farmers' market/farmstand/CSA act solely on behalf of the certified vendor and understand and adhere to the procedures and regulations of the Iowa FMNP.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.11(159,175B) Certified vendor noncompliance sanctions.

50.11(1) A warning may be the sanction for minor violations such as, but not limited to:

a. Failing to appropriately display the certified vendor sign with the current year certification sticker.

b. Conducting Iowa FMNP transactions at locations not authorized by the department or at times other than the posted hours and days for an authorized location.

c. Conducting Iowa FMNP transactions with an expired certification.

50.11(2) A disqualification may be the sanction for severe or repeated violations such as, but not limited to:

a. Failing to accept vouchers as payment only for eligible foods.

b. Redeeming vouchers on behalf of another vendor.

c. Returning cash or issuing credit in any form to recipients during sales transactions that involve vouchers only.

50.11(3) The department will issue certified vendors a written notice for all sanctions. A sanction from the department shall be pending for 15 days following receipt of the written notice by the certified vendor. The certified vendor shall be granted the pending period for presenting a written response or rebuttal. The department may reverse or modify a sanction based upon the written response submitted by the certified vendor. If a disqualification is upheld upon completion of the pending period, the department shall notify the certified vendor of the disqualification period including an effective date and, if applicable, an end date. A disqualification period may be in effect for at least the remainder of the current year or may be permanent.

50.11(4) Disqualified vendors shall refrain from participating in Iowa FMNP.

50.11(5) Violations involving the use of multiple vouchers in a single sales transaction shall be considered as a single violation. Violations involving multiple sales transactions, regardless of time elapsed, shall be considered multiple violations at a standard of one violation per sales transaction.

50.11(6) The department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers redeemed after the official date of the disqualification notification. The disqualified vendor may be required to return the certified vendor identification sign(s) to the department within 15 days of receipt of the disqualification notice. At the conclusion of a disqualification period, the vendor must reapply for and receive certification in order to resume participation in Iowa FMNP.

50.11(7) Probationary status. Any vendor successfully recertified following disqualification will be on probationary status for one full Iowa FMNP season. Recurrence of a substantiated disqualification violation during the probationary period and for which the certified vendor has been cited shall be sufficient grounds for immediate and automatic disqualification.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.12(159,175B) Appeal. A certified vendor who wishes to appeal a sanction made by the department that resulted in a suspension or disqualification may make a written request for administrative appeal to the department's Iowa FMNP director. This appeal must be made within 15 days of receipt of sanction notification by the certified vendor. The provisions of 21—Chapter 2 shall be applicable to an appeal except as otherwise provided in this chapter. The farmer/farmers' market/CSA program has the right to appeal a denial of an application to participate. Expiration of a contract or agreement shall not be subject to appeal.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

21—50.13(159,175B) Deadlines.

50.13(1) *Submission of vendor application.* All applications shall be submitted no later than one month preceding the last date on which vouchers may be used by recipients at an authorized farmers' market/farmstand/CSA.

50.13(2) *Recipient voucher usage expiration.* Vouchers shall be valid for recipient use from the season starting date through the ending date as designated by the department. Such date shall be clearly printed on the voucher face. Vouchers shall be null and void after the expiration date.

50.13(3) *Certified vendor voucher reimbursement.* All vouchers accepted by a certified vendor shall be redeemed on or before 15 days following the date of expiration for voucher usage by recipients. Such date shall be clearly printed on the voucher. Any claim to voucher payment beyond the voucher reimbursement expiration date is not valid and shall be denied.

50.13(4) *Submissions by local agency.* Deadlines for submission of records, reports, survey instruments and undistributed vouchers by local agencies shall be established by the department and specified in the agreement entered into with the local agency.

50.13(5) *Operations plans and reports to USDA-FNS.* The department shall develop and submit plans and reports in a manner prescribed by USDA-FNS.

[ARC 7883C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 159 and 175B.

[Filed 4/10/91, Notice 12/12/90—published 5/1/91, effective 6/5/91]

[Filed emergency 3/30/01 after Notice 2/7/01—published 4/18/01, effective 3/30/01]

[Filed emergency 6/10/05—published 7/6/05, effective 6/10/05]

[Filed 4/6/06, Notice 2/15/06—published 4/26/06, effective 5/31/06]

[Filed emergency 7/26/07—published 8/15/07, effective 7/26/07]

[Filed ARC 8308B (Notice ARC 7867B, IAB 6/17/09), IAB 11/18/09, effective 12/23/09]

[Filed ARC 2573C (Notice ARC 2486C, IAB 4/13/16), IAB 6/8/16, effective 7/13/16]

[Filed ARC 3677C (Notice ARC 3567C, IAB 1/17/18), IAB 3/14/18, effective 4/18/18]

[Filed ARC 7883C (Notice ARC 7643C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

INSURANCE DIVISION[191]

[Prior to 10/22/86, see Insurance Department[510], renamed Insurance Division[191] under the “umbrella” of Department of Commerce by the 1986 Iowa Acts, Senate File 2175]

ORGANIZATION AND PROCEDURES

CHAPTER 1 ORGANIZATION

1.1(502,505)	Definitions
1.2(502,505)	Mission
1.3(502,505)	General course and method of operations
1.4(502,505)	Contact information and business hours
1.5(502,505)	Information, forms, and requests
1.6(502,505)	Organization
1.7(505)	Service of process

CHAPTER 2 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

2.1(17A,22)	Statement of policy
2.2(17A,22)	Definitions
2.3(17A,22)	General provisions
2.4(17A,22)	Requests for access to records
2.5(17A,22)	Access to confidential records
2.6(17A,22)	Requests for confidential treatment
2.7(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
2.8(17A,22)	Disclosures without the consent of the subject
2.9(17A,22)	Consent to disclosure by the subject of a confidential record
2.10(17A,22)	Notice to suppliers of information
2.11(17A,22)	Personally identifiable information collected by the division
2.12(17A,22)	Confidential records

CHAPTER 3 CONTESTED CASES

3.1(17A)	Scope and applicability
3.2(17A)	Definitions
3.3(17A)	Time requirements
3.4(17A)	Requests for contested case proceeding
3.5(17A,507B)	Commencement of hearing; service; delivery; notice of hearing; answer
3.6(17A)	Presiding officer
3.7(17A)	Waiver of procedures
3.8(17A)	Telephone, video, or electronic proceedings
3.9(17A)	Disqualification
3.10(17A)	Consolidation—severance
3.11	Reserved
3.12(17A)	Service and filing of pleadings and other papers
3.13(17A)	Discovery
3.14(17A,505)	Subpoenas
3.15(17A)	Motions
3.16(17A)	Prehearing conference
3.17(17A)	Continuances
3.18(17A)	Withdrawals
3.19(17A,507B)	Intervention
3.20(17A)	Hearing procedures

3.21(17A,507B)	Evidence
3.22(17A)	Default
3.23(17A)	Ex parte communication
3.24(17A)	Recording costs
3.25(17A)	Interlocutory appeals
3.26(17A)	Final decision
3.27(17A)	Appeals and review by the commissioner of proposed decisions
3.28(17A)	Applications for rehearing
3.29(17A)	Stay of division action
3.30(17A)	No factual dispute contested cases
3.31(17A)	Emergency adjudicative proceedings
3.32(502,505,507B)	Summary cease and desist orders
3.33(17A,502,505)	Settlement

CHAPTER 4

WAIVER OF RULES AND DECLARATORY ORDERS

4.1(17A)	Applicability
4.2(17A)	Definitions
4.3(17A)	Severability
4.4(17A)	Public rulemaking docket

DIVISION I WAIVER OF RULES

4.5(17A)	Waivers
4.6(17A)	Petition for waiver
4.7(17A)	Waiver hearing procedures and ruling

DIVISION II DECLARATORY ORDERS

4.8(17A)	Petition for declaratory order
4.9(17A)	Notice of petition
4.10(17A)	Intervention
4.11(17A)	Briefs
4.12(17A)	Inquiries
4.13(17A)	Service and filing of petitions and other papers
4.14(17A)	Consideration
4.15(17A)	Action on petition
4.16(17A)	Refusal to issue order
4.17(17A)	Contents of declaratory order—effective date
4.18(17A)	Copies of orders
4.19(17A)	Effect of a declaratory order

REGULATION OF INSURERS

CHAPTER 5

REGULATION OF INSURERS—GENERAL PROVISIONS

5.1(505,507,508,515)	Definitions
5.2(505,507)	Examination for admission
5.3(507,508,515)	Submission of quarterly financial information
5.4(505,508,515,520)	Surplus notes
5.5(505,515,520)	Maximum allowable premium volume
5.6(505,515,520)	Treatment of various items on the financial statement
5.7(505)	Ordering withdrawal of domestic insurers from states
5.8(505)	Monitoring
5.9(505)	Rate and form filings

5.10(511)	Life companies—permissible investments
5.11	Reserved
5.12(515)	Collateral loans
5.13(508,515)	Loans to officers, directors, employees, etc.
5.14	Reserved
5.15(508,512B,514,514B,515,520)	Accounting practices and procedures manual and annual statement instructions
5.16 to 5.19	Reserved
5.20(508)	Computation of reserves

UNEARNED PREMIUM RESERVES ON MORTGAGE GUARANTY INSURANCE POLICIES

5.21(515C)	Unearned premium reserve factors
5.22(515C)	Contingency reserve
5.23 to 5.25	Reserved
5.26(508,515)	Participation in the NAIC Insurance Regulatory Information System
5.27(508,515,520)	Asset valuation
5.28(508,515,518,518A,520)	Risk-based capital and surplus
5.29(508,515)	Actuarial certification of reserves
5.30(515)	Single maximum risk—fidelity and surety risks
5.31(515)	Reinsurance contracts
5.32(511,515)	Investments in medium grade and lower grade obligations
5.33(510)	Credit for reinsurance
5.34(508)	Actuarial opinion and memorandum
5.35 to 5.39	Reserved
5.40(515)	Premium tax
5.41(508)	Tax on gross premiums—life companies
5.42(432)	Cash refund of premium tax
5.43(510)	Managing general agents

DISCLOSURE OF MORTGAGE LOAN APPLICATIONS

5.44 to 5.49	Reserved
5.50(535A)	Purpose
5.51(535A)	Definitions
5.52(535A)	Filing of reports
5.53(535A)	Form and content of reports
5.54(535A)	Additional information required
5.55(535A)	Written complaints

CHAPTER 6

ORGANIZATION OF DOMESTIC INSURANCE COMPANIES

6.1(506)	Definitions
6.2(506)	Promoters contributions
6.3(506)	Escrow
6.4(506)	Alienation
6.5(506)	Sales to promoters
6.6(506)	Options
6.7(506)	Qualifications of management
6.8(506)	Chief executive
6.9(506)	Directors

CHAPTER 7
DOMESTIC STOCK INSURERS PROXIES

PROXY REGULATIONS

7.1(523)	Application of regulation
7.2(523)	Proxies, consents and authorizations
7.3(523)	Disclosure of equivalent information
7.4(523)	Definitions
7.5(523)	Information to be furnished to stockholders
7.6(523)	Requirements as to proxy
7.7(523)	Material required to be filed
7.8(523)	False or misleading statements
7.9(523)	Prohibition of certain solicitations
7.10(523)	Special provisions applicable to election contests

SCHEDULE A
INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE B
INFORMATION TO BE INCLUDED IN STATEMENTS FILED BY OR ON BEHALF
OF A PARTICIPANT (OTHER THAN THE INSURER) IN A PROXY SOLICITATION
IN AN ELECTION CONTEST

POLICYHOLDER PROXY SOLICITATION

7.11(523)	Application
7.12(523)	Conditions—revocation
7.13(523)	Filing proxy
7.14(523)	Solicitation by agents—use of funds
7.15 to 7.19	Reserved

STOCK TRANSACTION REPORTING

7.20(523)	Statement of changes of beneficial ownership of securities
-----------	------------------------------------------------------------

CHAPTER 8
BENEVOLENT ASSOCIATIONS

8.1 and 8.2	Reserved
8.3(512A)	Organization
8.4(512A)	Membership
8.5(512A)	Fees, dues and assessments
8.6(512A)	Reserve fund
8.7(512A)	Certificates
8.8(512A)	Beneficiaries
8.9(512A)	Mergers
8.10(512A)	Directors and officers
8.11(512A)	Stockholders
8.12(512A)	Bookkeeping and accounts

CHAPTER 9
Reserved

INSURANCE PRODUCERS

CHAPTER 10
INSURANCE PRODUCER LICENSES AND LIMITED LICENSES

10.1(515K,522B)	Purpose and authority
10.2(515K,522B)	Definitions
10.3(515K,522B)	Requirement to hold a license

- 10.4(515K,522B) Licensing of resident producers
- 10.5(515K,522B) Licensing of nonresident producers
- 10.6(515K,522B) Issuance of license
- 10.7(522B) License lines of authority
- 10.8(515K,522B) License renewal
- 10.9(515K,522B) License reinstatement
- 10.10(515K,522B) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance
- 10.11(522B) Temporary licenses
- 10.12(515K,522B) Change in name, address or state of residence
- 10.13(515K,522B) Reporting of actions
- 10.14(515K,522B) Commissions and referral fees
- 10.15(515K,522B) Appointments
- 10.16(515K,522B) Appointment renewal
- 10.17(515K,522B) Appointment terminations
- 10.18(515K,522B) Licensing of a business entity
- 10.19(522B) Use of senior-specific certifications and professional designations in the sale of life insurance and annuities
- 10.20(515K,522B) Violations and penalties
- 10.21(252J,272D,515K) Suspension for failure to pay child support or state debt
- 10.22 and 10.23 Reserved
- 10.24(522B) Administration of examinations
- 10.25(515K,522B) Forms
- 10.26(515K,522B) Fees
- 10.27 to 10.50 Reserved
- 10.51(515K,522A,522E) Limited licenses

CHAPTER 11
CONTINUING EDUCATION FOR
INSURANCE PRODUCERS

- 11.1(505,522B) Statutory authority—purpose—applicability
- 11.2(505,522B) Definitions
- 11.3(505,522B) Continuing education requirements for producers
- 11.4(505,522B) Proof of completion of continuing education requirements
- 11.5(505,522B) Course approval
- 11.6(505,522B) Topic guidelines
- 11.7(505,522B) CE course renewal
- 11.8(505,522B) Appeals
- 11.9(505,522B) CE provider approval
- 11.10(505,522B) CE provider's responsibilities
- 11.11(505,522B) Prohibited conduct—CE providers
- 11.12(505,522B) Outside vendor
- 11.13(505,522B) CE course audits
- 11.14(505,522B) Fees and costs

CHAPTER 12
PORT OF ENTRY REQUIREMENTS

- 12.1(508,515) Purpose
- 12.2(508,515) Trust and other admission requirements
- 12.3(508,515) Examination and preferred supervision
- 12.4(508,515) Surplus required
- 12.5(508,515) Investments

CHAPTER 13
CONSENT FOR PROHIBITED PERSONS
TO ENGAGE IN THE BUSINESS OF INSURANCE

- 13.1(505,522B) Purpose and authority
- 13.2(505,522B) Definitions
- 13.3(505,522B) Requirement for prohibited persons to obtain consent
- 13.4(505,522B) Applications for consent
- 13.5(505,522B) Consideration of applications for consent
- 13.6(505,522B) Review of application by the division
- 13.7(505,522B) Consent effective for specified positions and responsibilities only
- 13.8(505,522B) Change in circumstances
- 13.9(505,522B) Burden of proof
- 13.10(505,522B) Violations and penalties

UNFAIR TRADE PRACTICES

CHAPTER 14
LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION

- 14.1(507B) Purpose
- 14.2(507B) Authority
- 14.3(507B) Applicability and scope
- 14.4(507B) Definitions
- 14.5(507B) Policies to be illustrated
- 14.6(507B) General rules and prohibitions
- 14.7(507B) Standards for basic illustrations
- 14.8(507B) Standards for supplemental illustrations
- 14.9(507B) Delivery of illustration and record retention
- 14.10(507B) Annual report; notice to policyowners
- 14.11(507B) Annual certifications
- 14.12(507B) Penalties
- 14.13(507B) Severability
- 14.14(507B) Effective date

CHAPTER 15
UNFAIR TRADE PRACTICES

DIVISION I
SALES PRACTICES

- 15.1(507B) Purpose
- 15.2(507B) Definitions
- 15.3(507B) Advertising
- 15.4(507B) Life insurance cost and benefit disclosure requirements
- 15.5(507B) Health insurance sales to individuals 65 years of age or older
- 15.6 Reserved
- 15.7(507B) Twisting prohibited
- 15.8(507B) Producer responsibilities
- 15.9(507B) Right to return a life insurance policy or annuity (free look)
- 15.10(507B) Uninsured/underinsured automobile coverage—notice required
- 15.11(507B) Unfair discrimination
- 15.12(507B) Testing restrictions of insurance applications for the human immunodeficiency virus
- 15.13(507B) Records maintenance
- 15.14(505,507B) Enforcement section—cease and desist and penalty orders
- 15.15 to 15.30 Reserved

DIVISION II
CLAIMS

15.31(507B)	General claims settlement guidelines
15.32(507B)	Prompt payment of certain health claims
15.33(507B)	Audit procedures for medical claims
15.34 to 15.40	Reserved
15.41(507B)	Claims settlement guidelines for property and casualty insurance
15.42(507B)	Acknowledgment of communications by property and casualty insurers
15.43(507B)	Standards for settlement of automobile insurance claims
15.44(507B)	Standards for determining replacement cost and actual cost values
15.45(507B)	Guidelines for use of aftermarket crash parts in motor vehicles
15.46 to 15.50	Reserved

DIVISION III
DISCLOSURE FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

15.51(507B)	Purpose
15.52(507B)	Definition
15.53(507B)	Exemptions
15.54(507B)	Disclosure requirements
15.55(507B)	Insurer duties
15.56 to 15.60	Reserved

DIVISION IV
ANNUITY DISCLOSURE REQUIREMENTS

15.61(507B)	Purpose
15.62(507B)	Applicability and scope
15.63(507B)	Definitions
15.64(507B)	Standards for the disclosure document and Buyer's Guide
15.65(507B)	Content of disclosure documents
15.66(507B)	Standards for annuity illustrations
15.67(507B)	Report to contract owners
15.68(507B)	Penalties
15.69(507B)	Severability
15.70 and 15.71	Reserved

DIVISION V
SUITABILITY IN ANNUITY TRANSACTIONS

15.72(507B)	Purpose
15.73(507B)	Applicability and scope
15.74(507B)	Definitions
15.75(507B)	Duties of insurers and producers
15.76(507B)	Producer training
15.77(507B)	Compliance; mitigation; penalties; enforcement
15.78(507B)	Recordkeeping
15.79	Reserved

DIVISION VI
INDEXED PRODUCTS TRAINING REQUIREMENT

15.80(507B,522B)	Purpose
15.81(507B,522B)	Definitions
15.82(507B,522B)	Special training required
15.83(507B,522B)	Conduct of training course
15.84(507B,522B)	Insurer duties
15.85(507B,522B)	Verification of training
15.86(507B,522B)	Penalties
15.87(507B,522B)	Compliance date

CHAPTER 16
REPLACEMENT OF LIFE INSURANCE AND ANNUITIES

DIVISION I

16.1 to 16.20 Reserved

DIVISION II

16.21(507B) Purpose
 16.22(507B) Definitions
 16.23(507B) Exemptions
 16.24(507B) Duties of producers
 16.25(507B) Duties of all insurers that use producers on or after January 1, 2001
 16.26(507B) Duties of replacing insurers that use producers
 16.27(507B) Duties of the existing insurer
 16.28(507B) Duties of insurers with respect to direct-response solicitations
 16.29(507B) Violations and penalties
 16.30(507B) Severability

CHAPTER 17
LIFE AND HEALTH REINSURANCE AGREEMENTS

17.1(508) Authority and purpose
 17.2(508) Scope
 17.3(508) Accounting requirements
 17.4(508) Written agreements
 17.5(508) Existing agreements

CHAPTERS 18 and 19

Reserved

PROPERTY AND CASUALTY INSURANCE

CHAPTER 20
PROPERTY AND CASUALTY INSURANCE

DIVISION I
FORM AND RATE REQUIREMENTS

20.1(505,509,514A,515,515A,515F) General requirements for filing rates and forms
 20.2(505) Objection to form filing
 20.3 Reserved
 20.4(505,509,514A,515,515A,515F) Policy form filing
 20.5(515A) Rate or manual rule filing
 20.6(515A) Exemption from rate filing requirement
 20.7 Reserved
 20.8(515F) Rate filings for crop-hail insurance
 20.9 and 20.10 Reserved
 20.11(515) Exemption from form and rate filing requirements
 20.12 to 20.40 Reserved

DIVISION II
IOWA FAIR PLAN ACT

20.41(515,515F) Purpose
 20.42(515,515F) Scope
 20.43(515,515F) Definitions
 20.44(515,515F) Eligible risks
 20.45(515,515F) Membership
 20.46(515,515F) Administration

20.47(515,515F)	Duties of the governing committee
20.48(515,515F)	Annual and special meetings
20.49(515,515F)	Application for insurance
20.50(515,515F)	Inspection procedure
20.51(515,515F)	Procedure after inspection and receipt of application
20.52(515,515F)	Reasonable underwriting standards for property coverage
20.53(515,515F)	Reasonable underwriting standards for liability coverage
20.54(515,515F)	Cancellation; nonrenewal and limitations; review of eligibility
20.55(515,515F)	Assessments
20.56(515,515F)	Commission
20.57(515,515F)	Public education
20.58(515,515F)	Cooperation and authority of producers
20.59(515,515F)	Review by commissioner
20.60(515,515F)	Indemnification
20.61 to 20.69	Reserved

DIVISION III

CERTIFICATES OF INSURANCE FOR COMMERCIAL LENDING TRANSACTIONS

20.70(515)	Purpose
20.71(515)	Definitions
20.72(515)	Evidence of insurance
20.73 to 20.79	Reserved

DIVISION IV

CANCELLATIONS, NONRENEWALS AND TERMINATIONS

20.80(505B,515,515D,518,518A,519)	Notice of cancellation, nonrenewal or termination of property and casualty insurance
-----------------------------------	--------------------------------------------------------------------------------------

CHAPTER 21

REQUIREMENTS FOR SURPLUS LINES,
RISK RETENTION GROUPS AND PURCHASING GROUPS

21.1(515E,515I)	Definitions
21.2(515I)	Eligible surplus lines insurer's duties
21.3(515I)	Surplus lines insurance producer's duties
21.4(515I)	Surplus lines insurance producer's duty to insured
21.5(515I)	Procedures for qualification and renewal as an eligible surplus lines insurer
21.6(515E)	Procedures for qualification as a risk retention group
21.7(515E)	Risk retention groups
21.8(515E)	Procedures for registration as a purchasing group
21.9(515E,515I)	Failure to comply; penalties

CHAPTER 22

FINANCIAL GUARANTY INSURANCE

22.1(515C)	Definitions
22.2(515)	Financial requirements and reserves

CHAPTERS 23 and 24

Reserved

CHAPTER 25

MILITARY SALES PRACTICES

25.1(505)	Purpose and authority
25.2(505)	Scope
25.3(505)	Exemptions
25.4(505)	Definitions

25.5(505)	Practices declared false, misleading, deceptive or unfair on a military installation
25.6(505)	Practices declared false, misleading, deceptive or unfair regardless of location
25.7(505)	Reporting requirements
25.8(505)	Violation and penalties
25.9(505)	Severability

CHAPTER 26

Reserved

CHAPTER 27

PREFERRED PROVIDER ARRANGEMENTS

27.1(514F)	Purpose
27.2(514F)	Definitions
27.3(514F)	Preferred provider arrangements
27.4(514F)	Health benefit plans
27.5(514F)	Preferred provider participation requirements
27.6(514F)	General requirements
27.7(514F)	Civil penalties
27.8(514F)	Health care insurer requirements

CHAPTER 28

CREDIT LIFE AND CREDIT
ACCIDENT AND HEALTH INSURANCE

28.1(509)	Purpose
28.2(509)	Definitions
28.3(509)	Rights and treatment of debtors
28.4(509)	Policy forms and related material
28.5(509)	Determination of reasonableness of benefits in relation to premium charge
28.6	Reserved
28.7(509)	Credit life insurance rates
28.8(509)	Credit accident and health insurance
28.9(509)	Refund formulas
28.10(509)	Experience reports and adjustment of prima facie rates
28.11(509)	Use of rates—direct business only
28.12(509)	Supervision of credit insurance operations
28.13(509)	Prohibited transactions
28.14(509)	Disclosure and readability
28.15(509)	Severability
28.16(509)	Effective date
28.17(509)	Fifteen-day free examination

CHAPTER 29

CONTINUATION RIGHTS UNDER GROUP ACCIDENT
AND HEALTH INSURANCE POLICIES

29.1(509B)	Definitions
29.2(509B)	Notice regarding continuation rights
29.3(509B)	Qualifying events for continuation rights
29.4(509B)	Interplay between chapter 509B and COBRA
29.5(509B)	Effective date for compliance

*LIFE AND HEALTH INSURANCE*CHAPTER 30
LIFE INSURANCE POLICIES

30.1(508)	Purpose
30.2(508)	Scope
30.3(508)	Definitions
30.4(508)	Prohibitions, regulations and disclosure requirements
30.5(508)	General filing requirements
30.6(508)	Back dating of life policies
30.7(508,515)	Expiration date of policy vs. charter expiration date
30.8(505B,509)	Electronic delivery of group life insurance certificates
30.9(505B,508)	Notice of cancellation, nonrenewal or termination of life insurance and annuities

CHAPTER 31
LIFE INSURANCE COMPANIES—VARIABLE ANNUITIES CONTRACTS

31.1(508)	Definitions
31.2(508)	Insurance company qualifications
31.3(508)	Filing, policy forms and provision
31.4(508)	Separate account or accounts and investments
31.5(508)	Required reports
31.6(508)	Producers
31.7(508)	Foreign companies

CHAPTER 32
DEPOSITS BY A DOMESTIC LIFE COMPANY IN A
CUSTODIAN BANK OR CLEARING CORPORATION

32.1(508)	Purpose
32.2(508)	Definitions
32.3(508)	Requirements upon custodial account and custodial agreement
32.4(508)	Requirements upon custodians
32.5(508,511)	Deposit of securities

CHAPTER 33
VARIABLE LIFE INSURANCE MODEL REGULATION

33.1(508A)	Authority
33.2(508A)	Definitions
33.3(508A)	Qualification of insurer to issue variable life insurance
33.4(508A)	Insurance policy requirements
33.5(508A)	Reserve liabilities for variable life insurance
33.6(508A)	Separate accounts
33.7(508A)	Information furnished to applicants
33.8(508A)	Applications
33.9(508A)	Reports to policyholders
33.10(508A)	Foreign companies
33.11	Reserved
33.12(508A)	Separability article

CHAPTER 34
NONPROFIT HEALTH SERVICE CORPORATIONS

34.1(514)	Purpose
34.2(514)	Definitions
34.3(514)	Annual report requirements

- 34.4(514) Arbitration
- 34.5(514) Filing requirements
- 34.6(514) Participating hospital contracts
- 34.7(514) Composition, nomination, and election of board of directors

CHAPTER 35

ACCIDENT AND HEALTH INSURANCE

BLANKET ACCIDENT AND SICKNESS INSURANCE

- 35.1(509) Purpose
- 35.2(509) Scope
- 35.3(509) Definitions
- 35.4(509) Required provisions
- 35.5(509) Application and certificates not required
- 35.6(509) Facility of payment
- 35.7(509) General filing requirements
- 35.8(509) Electronic delivery of accident and health group insurance certificates

GENERAL ACCIDENT AND HEALTH INSURANCE REQUIREMENTS

- 35.9(509B,513B,514D) Notice of cancellation, nonrenewal or termination of accident and health insurance
- 35.10 to 35.19 Reserved
- 35.20(509A) Life and health self-funded plans
- 35.21(509) Review of certificates issued under group policies

LARGE GROUP HEALTH INSURANCE COVERAGE

- 35.22(509) Purpose
- 35.23(509) Definitions
- 35.24(509) Eligibility to enroll
- 35.25(509) Special enrollments
- 35.26(509) Group health insurance coverage policy requirements
- 35.27(509) Methods of counting creditable coverage
- 35.28(509) Certificates of creditable coverage
- 35.29(509) Notification requirements
- 35.30 Reserved
- 35.31(509) Disclosure requirements
- 35.32(514C) Treatment options
- 35.33(514C) Emergency services
- 35.34(514C) Provider access
- 35.35(509) Reconstructive surgery

CONSUMER GUIDE

- 35.36(514K) Purpose
- 35.37(514K) Information filing requirements
- 35.38(514K) Limitation of information published
- 35.39(514C) Contraceptive coverage
- 35.40(514C) Autism spectrum disorder coverage

CHAPTER 36

INDIVIDUAL ACCIDENT AND HEALTH—MINIMUM STANDARDS AND RATE HEARINGS

DIVISION I MINIMUM STANDARDS

- 36.1(514D) Purpose
- 36.2(514D) Applicability and scope

36.3(514D)	Effective date
36.4(514D)	Policy definitions
36.5(514D)	Prohibited policy provisions
36.6(514D)	Accident and sickness minimum standards for benefits
36.7(514D)	Required disclosure provisions
36.8(507B)	Requirements for replacement
36.9(514D)	Filing requirements
36.10(514D)	Loss ratios
36.11(514D)	Certification
36.12(514D)	Severability
36.13(513C,514D)	Individual health insurance coverage for children under the age of 19
36.14 to 36.19	Reserved

DIVISION II
RATE HEARINGS

36.20(514D,505)	Rate hearings
-----------------	---------------

CHAPTER 37
MEDICARE SUPPLEMENT INSURANCE

37.1(514D)	Purpose and authority
37.2(514D)	Applicability, scope, and appendices
37.3(514D)	Definitions
37.4(514D)	Policy definitions and terms
37.5(514D)	Policy provisions
37.6(514D)	Minimum benefit standards for prestandardized Medicare supplement benefit plan policies or certificates issued for delivery prior to January 1, 1992 (prestandardized plans)
37.7(514D)	Benefit standards for 1990 standardized Medicare supplement benefit plan policies or certificates issued for delivery on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010 (1990 plans)
37.8(514D)	Benefit standards for 2010 standardized Medicare supplement benefit plan policies or certificates issued for delivery with an effective date for coverage on or after June 1, 2010 (2010 plans)
37.9(514D)	Standard Medicare supplement benefit plans for 2020 standardized Medicare supplement benefit plan policies or certificates issued for delivery to individuals newly eligible for Medicare on or after January 1, 2020
37.10 to 37.19	Reserved
37.20(514D)	Medicare Select policies and certificates
37.21(514D)	Open enrollment
37.22(514D)	Standards for claims payment
37.23(514D)	Loss ratio standards and refund or credit of premium
37.24(514D)	Filing and approval of policies and certificates and premium rates
37.25(514D)	Permitted compensation arrangements
37.26(514D)	Required notice regarding policies or certificates which are not Medicare supplement policies or certificates
37.27(514D)	Requirements for application forms and replacement coverage
37.28(514D)	Required disclosure provisions
37.29	Reserved
37.30(514D)	Standards for marketing
37.31(514D)	Appropriateness of recommended purchase and excessive insurance
37.32(514D)	Reporting of multiple policies
37.33(514D)	Prohibition against preexisting conditions, waiting periods, elimination periods and probationary periods in replacement policies or certificates

- 37.34(514D) Prohibitions against use of genetic information and against requests for genetic testing
- 37.35(514D) Prohibition against using materials prepared by SHIIP
- 37.36(514D) Guaranteed issue for eligible persons
- 37.37 to 37.49 Reserved
- 37.50(507B,514D) Medicare supplement advertising
- 37.51(514D) Severability

CHAPTER 38 COORDINATION OF BENEFITS

DIVISION I

- 38.1 to 38.11 Reserved

DIVISION II

- 38.12(509,514) Purpose and applicability
- 38.13(509,514) Definitions
- 38.14(509,514) Use of model COB contract provision
- 38.15(509,514) Rules for coordination of benefits
- 38.16(509,514) Procedure to be followed by secondary plan to calculate benefits and pay a claim
- 38.17(509,514) Notice to covered persons
- 38.18(509,514) Miscellaneous provisions

CHAPTER 39 LONG-TERM CARE INSURANCE

DIVISION I GENERAL PROVISIONS

- 39.1(514G) Purpose
- 39.2(514G) Authority
- 39.3(514G) Applicability and scope
- 39.4(514G) Definitions
- 39.5(514G) Policy definitions
- 39.6(514G) Policy practices and provisions
- 39.7(514G) Required disclosure provisions
- 39.8(514G) Prohibition against postclaims underwriting
- 39.9(514D,514G) Minimum standards for home health care benefits in long-term care insurance policies
- 39.10(514D,514G) Requirement to offer inflation protection
- 39.11(514D,514G) Requirements for application forms and replacement coverage
- 39.12(514G) Reserve standards
- 39.13(514D) Loss ratio
- 39.14(514G) Filing requirement
- 39.15(514D,514G) Standards for marketing
- 39.16(514D,514G) Suitability
- 39.17(514G) Prohibition against preexisting conditions and probationary periods in replacement policies or certificates
- 39.18(514G) Standard format outline of coverage
- 39.19(514G) Requirement to deliver shopper's guide
- 39.20(514G) Policy summary and delivery of life insurance policies with long-term care riders
- 39.21(514G) Reporting requirement for long-term care benefits funded through life insurance by acceleration of the death benefit
- 39.22(514G) Unintentional lapse
- 39.23(514G) Denial of claims
- 39.24(514G) Incontestability period

39.25(514G)	Required disclosure of rating practices to consumers
39.26(514G)	Initial filing requirements
39.27(514G)	Reporting requirements
39.28(514G)	Premium rate schedule increases
39.29(514G)	Nonforfeiture
39.30(514G)	Standards for benefit triggers
39.31(514G)	Additional standards for benefit triggers for qualified long-term care insurance contracts
39.32(514G)	Penalties
39.33(514G)	Notice of cancellation, nonrenewal or termination of long-term care insurance
39.34 to 39.40	Reserved

DIVISION II
INDEPENDENT REVIEW OF BENEFIT TRIGGER DETERMINATIONS

39.41(514G)	Purpose
39.42(514G)	Effective date
39.43(514G)	Definitions
39.44(514G)	Notice of benefit trigger determination and content
39.45(514G)	Notice of internal appeal decision and right to independent review
39.46(514G)	Independent review request
39.47(514G)	Certification process
39.48(514G)	Selection of independent review entity
39.49(514G)	Independent review process
39.50(514G)	Decision notification
39.51(514G)	Insurer information
39.52(514G)	Certification of independent review entity
39.53(514G)	Additional requirements
39.54(514G)	Toll-free telephone number
39.55(514G)	Division application and reports
39.56 to 39.74	Reserved

DIVISION III
LONG-TERM CARE PARTNERSHIP PROGRAM

39.75(514H)	Purpose
39.76(514H)	Effective date
39.77(514H)	Definitions
39.78(514H)	Eligibility
39.79(514H)	Discontinuance of partnership program
39.80(514H)	Required disclosures
39.81(514H)	Form filings
39.82(514H)	Exchanges
39.83(514H)	Required policy terms and disclosures
39.84(514H)	Standards for marketing and suitability
39.85(514H)	Required reports

CHAPTER 40
HEALTH MAINTENANCE ORGANIZATIONS

(Health and Insurance—Joint Rules)

40.1(514B)	Definitions
40.2(514B)	Application
40.3(514B)	Inspection of evidence of coverage
40.4(514B)	Governing body and enrollee representation
40.5(514B)	Quality of care
40.6(514B)	Change of name

40.7(514B)	Change of ownership
40.8(514B)	Termination of services
40.9(514B)	Complaints
40.10(514B)	Cancellation of enrollees
40.11(514B)	Application for certificate of authority
40.12(514B)	Net worth
40.13(514B)	Fidelity bond
40.14(514B)	Annual report
40.15(514B)	Cash or asset management agreements
40.16	Reserved
40.17(514B)	Reinsurance
40.18(514B)	Provider contracts
40.19(514B)	Producers' duties
40.20(514B)	Emergency services
40.21(514B)	Reimbursement
40.22(514B)	Health maintenance organization requirements
40.23(514B)	Disclosure requirements
40.24(514B)	Provider access
40.25(514B)	Electronic delivery of accident and health group insurance certificates
40.26(514B)	Notice of cancellation, nonrenewal or termination of enrollment

CHAPTER 41

LIMITED SERVICE ORGANIZATIONS

41.1(514B)	Definitions
41.2(514B)	Application
41.3(514B)	Inspection of evidence of coverage
41.4(514B)	Governing body and enrollee representation
41.5(514B)	Quality of care
41.6(514B)	Change of name
41.7(514B)	Change of ownership
41.8(514B)	Complaints
41.9(514B)	Cancellation of enrollees
41.10(514B)	Application for certificate of authority
41.11(514B)	Net equity and deposit requirements
41.12(514B)	Fidelity bond
41.13(514B)	Annual report
41.14(514B)	Cash or asset management agreements
41.15(514B)	Reinsurance
41.16(514B)	Provider contracts
41.17(514B)	Producers' duties
41.18(514B)	Emergency services
41.19(514B)	Reimbursement
41.20(514B)	Limited service organization requirements
41.21(514B)	Disclosure requirements

CHAPTER 42

GENDER-BLENDED MINIMUM NONFORFEITURE
STANDARDS FOR LIFE INSURANCE

42.1(508)	Purpose
42.2(508)	Definitions
42.3(508)	Use of gender-blended mortality tables
42.4(508)	Unfair discrimination

- 42.5(508) Separability
- 42.6(508) 2001 CSO Mortality Table

CHAPTER 43

ANNUITY MORTALITY TABLES FOR USE IN
DETERMINING RESERVE LIABILITIES FOR ANNUITIES

- 43.1(508) Purpose
- 43.2(508) Definitions
- 43.3(508) Individual annuity or pure endowment contracts
- 43.4(508) Group annuity or pure endowment contracts
- 43.5(508) Application of the 1994 GAR Table
- 43.6(508) Application of the 2012 IAR Mortality Table
- 43.7(508) Separability

CHAPTER 44

SMOKER/NONSMOKER MORTALITY TABLES
FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES
AND NONFORFEITURE BENEFITS

- 44.1(508) Purpose
- 44.2(508) Definitions
- 44.3(508) Alternate tables
- 44.4(508) Conditions
- 44.5(508) Separability
- 44.6(508) 2001 CSO Mortality Table

INSURANCE HOLDING COMPANY SYSTEMS

CHAPTER 45

INSURANCE HOLDING COMPANY SYSTEMS

- 45.1(521A) Purpose
- 45.2(521A) Definitions
- 45.3(521A) Subsidiaries of domestic insurers
- 45.4(521A) Control acquisition of domestic insurer
- 45.5(521A) Registration of insurers
- 45.6(521A) Alternative and consolidated registrations
- 45.7(521A) Exemptions
- 45.8(521A) Disclaimers and termination of registration
- 45.9(521A) Transactions subject to prior notice—notice filing
- 45.10(521A) Extraordinary dividends and other distributions
- 45.11(521A) Enterprise risk report
- 45.12(521A) Forms—additional information and exhibits

CHAPTER 46

MUTUAL HOLDING COMPANIES

- 46.1(521A) Purpose
- 46.2(521A) Definitions
- 46.3(521A) Application—contents—process
- 46.4(521A) Plan of reorganization
- 46.5(521A) Duties of the commissioner
- 46.6(521A) Regulation—compliance
- 46.7(521A) Reorganization of domestic mutual insurer with mutual insurance holding company
- 46.8(521A) Reorganization of foreign mutual insurer with mutual insurance holding company
- 46.9(521A) Mergers of mutual insurance holding companies
- 46.10(521A) Stock offerings

- 46.11(521A) Regulation of holding company system
 46.12(521A) Reporting of stock ownership and transactions

CHAPTER 47
 VALUATION OF LIFE INSURANCE POLICIES

(Including New Select Mortality Factors)

- 47.1(508) Purpose
 47.2(508) Application
 47.3(508) Definitions
 47.4(508) General calculation requirements for basic reserves and premium deficiency reserves
 47.5(508) Calculation of minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies)
 47.6(508) Calculation of minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyowner to keep a policy in force over a secondary guarantee period
 47.7(508) 2001 CSO Mortality Table

VIATICAL AND LIFE SETTLEMENTS

CHAPTER 48
 VIATICAL AND LIFE SETTLEMENTS

- 48.1(508E) Purpose and authority
 48.2(508E) Definitions
 48.3(508E) License requirements
 48.4(508E) Disclosure statements
 48.5(508E) Contract requirements
 48.6(508E) Filing of forms
 48.7(508E) Reporting requirements
 48.8(508E) Examination or investigations
 48.9(508E) Requirements and prohibitions
 48.10(508E) Penalties; injunctions; civil remedies; cease and desist
 48.11(252J,272D) Suspension for failure to pay child support or state debt
 48.12 and 48.13 Reserved
 48.14(508E) Severability

CHAPTER 49
 FINANCIAL INSTRUMENTS USED IN HEDGING TRANSACTIONS

- 49.1(511) Purpose
 49.2(511) Definitions
 49.3(511) Guidelines and internal control procedures
 49.4(511) Documentation requirements
 49.5(511) Trading requirements

SECURITIES

CHAPTER 50
 REGULATION OF SECURITIES OFFERINGS AND THOSE WHO ENGAGE
 IN THE SECURITIES BUSINESS

DIVISION I
 DEFINITIONS AND ADMINISTRATION

- 50.1(502) Definitions
 50.2(502) Cost of audit or inspection

50.3(502) Interpretative opinions or no-action letters
 50.4 to 50.9 Reserved

DIVISION II
 REGISTRATION OF BROKER-DEALERS AND AGENTS

50.10(502) Broker-dealer registrations, renewals, amendments, succession, and withdrawals
 50.11(502) Principals
 50.12(502) Agent and issuer registrations, renewals and amendments
 50.13(502) Agent continuing education requirements
 50.14(502) Broker-dealer record-keeping requirements
 50.15(502) Broker-dealer minimum financial requirements and financial reporting requirements
 50.16(502) Dishonest or unethical practices in the securities business
 50.17(502) Rules of conduct
 50.18(502) Limited registration of Canadian broker-dealers and agents
 50.19(502) Brokerage services by national and state banks
 50.20(502) Broker-dealers having contracts with national and state banks
 50.21(502) Brokerage services by credit unions, savings banks, and savings and loan institutions
 50.22(502) Broker-dealers having contracts with credit unions, savings banks, and savings and loan institutions
 50.23 to 50.29 Reserved

DIVISION III
 REGISTRATION OF INVESTMENT ADVISERS,
 INVESTMENT ADVISER REPRESENTATIVES,
 AND FEDERAL COVERED INVESTMENT ADVISERS

50.30(502) Electronic filing with designated entity
 50.31(502) Investment adviser applications and renewals
 50.32(502) Application for investment adviser representative registration
 50.33(502) Examination requirements
 50.34(502) Notice filing requirements for federal covered investment advisers
 50.35(502) Withdrawal of investment adviser registration
 50.36(502) Investment adviser brochure
 50.37(502) Cash solicitation
 50.38(502) Prohibited conduct in providing investment advice
 50.39(502) Custody of client funds or securities by investment advisers
 50.40(502) Minimum financial requirements for investment advisers
 50.41(502) Bonding requirements for investment advisers
 50.42(502) Record-keeping requirements for investment advisers
 50.43(502) Financial reporting requirements for investment advisers
 50.44(502) Solely incidental services by certain professionals
 50.45(502) Registration exemption for investment advisers to private funds
 50.46(502) Contents of investment advisory contract
 50.47(502) Business continuity and succession planning for investment advisers
 50.48 and 50.49 Reserved

DIVISION IV
 RULES COVERING ALL REGISTERED PERSONS

50.50(502) Internet advertising by broker-dealers, investment advisers, broker-dealer agents, investment adviser representatives, and federal covered investment advisers
 50.51(502) Consent to service
 50.52(252J) Denial, suspension or revocation of agent or investment adviser representative registration for failure to pay child support
 50.53 Reserved

- 50.54(272D) Denial, suspension or revocation of agent or investment adviser representative registration for failure to pay state debt
 50.55(502) Use of senior-specific certifications and professional designations
 50.56 to 50.59 Reserved

DIVISION V
REGISTRATION OF SECURITIES

- 50.60(502) Notice filings for investment company securities offerings
 50.61(502) Registration of small corporate offerings
 50.62(502) Streamlined registration for certain equity securities
 50.63(502) Registration of multijurisdictional offerings
 50.64(502) Form of financial statements
 50.65(502) Reports contingent to registration by qualification
 50.66(502) NASAA guidelines and statements of policy
 50.67(502) Amendments to registration by qualification
 50.68(502) Delivery of prospectus
 50.69(502) Advertisements
 50.70(502) Fee for securities registration filings under Iowa Code section 502.305
 50.71 to 50.79 Reserved

DIVISION VI
EXEMPTIONS

- 50.80 Reserved
 50.81(502) Notice filings for Rule 506 offerings
 50.82(502) Notice filings for agricultural cooperative associations
 50.83(502) Unsolicited order exemption
 50.84(502) Solicitation of interest exemption
 50.85(502) Internet offers exemption
 50.86(502) Denial, suspension, revocation, condition, or limitation of limited offering transaction exemption
 50.87(502) Nonprofit securities exemption
 50.88(502) Transactions with specified investors
 50.89(502) Designated securities manuals
 50.90(502) Intrastate crowdfunding exemption
 50.91(502) Notice filing requirement for federal crowdfunding offerings
 50.92(502) Notice filing requirement for Regulation A – Tier 2 offerings
 50.93 to 50.99 Reserved

DIVISION VII
FRAUD AND OTHER PROHIBITED CONDUCT

- 50.100(502) Fraudulent practices
 50.101(502) Rescission offers
 50.102(502) Fraudulent, deceptive or manipulative act, practice, or course of business in providing investment advice
 50.103(502) Investment advisory contracts
 50.104 to 50.109 Reserved

DIVISION VIII
VIATICAL SETTLEMENT INVESTMENT CONTRACTS

- 50.110(502) Application by viatical settlement investment contract issuers and registration of agents to sell viatical settlement investment contracts
 50.111(502) Risk disclosure
 50.112(502) Advertising of viatical settlement investment contracts
 50.113(502) Duty to disclose

CHAPTERS 51 to 54

Reserved

CHAPTER 55

LICENSING OF PUBLIC ADJUSTERS

55.1(522C)	Purpose
55.2(522C)	Definitions
55.3(522C)	License required to operate as public adjuster
55.4(522C)	Application for license
55.5(522C)	Issuance of resident license
55.6(522C)	Public adjuster examination
55.7(522C)	Exemptions from examination
55.8(522C)	Nonresident license reciprocity
55.9(522C)	Terms of licensure
55.10(522C)	Evidence of financial responsibility
55.11(522C)	Continuing education
55.12(522C)	License denial, nonrenewal or revocation
55.13(522C)	Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance
55.14(522C)	Contract between public adjuster and insured
55.15(522C)	Escrow accounts
55.16(522C)	Record retention
55.17(522C)	Standards of conduct of public adjuster
55.18(522C)	Public adjuster fees
55.19(522C)	Penalties
55.20(522C)	Fees
55.21(522C)	Severability

CHAPTER 56

WORKERS' COMPENSATION GROUP SELF-INSURANCE

56.1(87,505)	General provisions
56.2(87,505)	Definitions
56.3(87,505)	Requirements for self-insurance
56.4	Reserved
56.5(87,505)	Excess insurance
56.6(87,505)	Rates and reporting of rates
56.7(87,505)	Special provisions
56.8(87,505)	Certificate of approval; termination
56.9(87,505)	Examinations
56.10(87,505)	Board of trustees—membership, powers, duties, and prohibitions
56.11(87,505)	Association membership; termination; liability
56.12(87,505)	Requirements of sales agents
56.13(87,505)	Requirements for continued approval
56.14(87,505)	Misrepresentation prohibited
56.15(87,505)	Investments
56.16(87,505)	Refunds
56.17(87,505)	Premium payment; reserves
56.18(87,505)	Deficits and insolvencies
56.19(87,505)	Grounds for nonrenewal or revocation of a certificate of relief from insurance
56.20(87,505)	Hearing and appeal
56.21(87,505)	Existing approved self-insurers
56.22(87,505)	Severability clause

CHAPTER 57

WORKERS' COMPENSATION SELF-INSURANCE FOR INDIVIDUAL EMPLOYERS

57.1(87,505)	General provisions
57.2(87,505)	Definitions
57.3(87,505)	Requirements for self-insurance
57.4(87,505)	Additional security requirements
57.5(87,505)	Application for an individual self-insurer
57.6	Reserved
57.7(87,505)	Excess insurance
57.8(87,505)	Insolvency
57.9(87,505)	Renewals
57.10(87,505)	Periodic examination
57.11(87,505)	Grounds for nonrenewal or revocation of a certificate of relief from insurance
57.12(87,505)	Hearing and appeal
57.13(87,505)	Existing approved self-insurers
57.14(87,505)	Severability clause

CHAPTER 58

THIRD-PARTY ADMINISTRATORS

58.1(510)	Purpose
58.2(510)	Definitions
58.3(505,510)	Registration required
58.4(510)	Third-party administrator duties
58.5(510)	Renewal procedure
58.6(505,510)	Responsibilities of the insurer
58.7(505,510)	Written agreement
58.8(510)	Compensation to the third-party administrator
58.9(510)	Disclosure of charges and fees
58.10(510)	Delivery of materials to covered individuals
58.11(510)	Annual report and fee
58.12(510)	Change of information
58.13(510)	Inquiry by commissioner
58.14(510)	Complaints
58.15(510)	Periodic examination
58.16(510)	Grounds for denial, nonrenewal, suspension or revocation of certificate of registration
58.17(510)	Confidential information
58.18(510)	Fees
58.19(510)	Severability clause
58.20(510)	Compliance date

CHAPTER 59

PHARMACY BENEFITS MANAGERS

59.1(510B,510C)	Purpose
59.2(510B)	Definitions
59.3(510B)	Timely payment of pharmacy claims
59.4(510B)	Audits of pharmacies by pharmacy benefits managers
59.5	Reserved
59.6(510B)	Termination or suspension of contracts with pharmacies by pharmacy benefits managers
59.7	Reserved
59.8(510B)	Complaints

- 59.9(510,510B) Duty to notify commissioner of fraud
- 59.10(507,510,510B) Commissioner examinations of pharmacy benefits managers
- 59.11(510B,510C) Pharmacy benefits manager annual report
- 59.12(505,507,507B,510,510B,510C,514L) Failure to comply

CHAPTER 60

WORKERS' COMPENSATION INSURANCE RATE FILING PROCEDURES

- 60.1(515A) Purpose
- 60.2(515A) Definitions, scope, authority
- 60.3(515A) General filing requirements
- 60.4(515A) Rate or manual rule filing
- 60.5(515A) Violation and penalties
- 60.6(515A) Severability
- 60.7(515A) Effective date

CHAPTERS 61 to 69

Reserved

MANAGED HEALTH CARE

CHAPTER 70

UTILIZATION REVIEW

- 70.1(505,514F) Purpose
- 70.2(505,514F) Definitions
- 70.3(505,514F) Application
- 70.4(505,514F) Standards
- 70.5(505,514F) Retroactive application
- 70.6(505,514F) Variances allowed
- 70.7(505,514F) Confidentiality
- 70.8(514C) Utilization review of postdelivery benefits and care
- 70.9(505,507B,514F) Enforcement
- 70.10(514F) Credentialing—retrospective payment

HEALTH BENEFIT PLANS

CHAPTER 71

SMALL GROUP HEALTH BENEFIT PLANS

- 71.1(513B) Purpose
- 71.2(513B) Definitions
- 71.3(513B) Applicability and scope
- 71.4(513B) Establishment of classes of business
- 71.5(513B) Transition for assumptions of business from another carrier
- 71.6(513B) Restrictions relating to premium rates
- 71.7(513B) Requirement to insure entire groups
- 71.8(513B) Case characteristics
- 71.9(513B) Application to reenter state
- 71.10(513B) Creditable coverage
- 71.11(513B) Rules related to fair marketing
- 71.12(513B) Status of carriers as small employer carriers
- 71.13(513B) Restoration of coverage
- 71.14(513B) Basic health benefit plan and standard health plan policy forms
- 71.15(513B) Methods of counting creditable coverage
- 71.16(513B) Certificates of creditable coverage
- 71.17(513B) Notification requirements

71.18(513B)	Special enrollments
71.19(513B)	Disclosure requirements
71.20(514C)	Treatment options
71.21(514C)	Emergency services
71.22(514C)	Provider access
71.23(513B)	Reconstructive surgery
71.24(514C)	Contraceptive coverage
71.25(513B)	Suspension of the small employer health reinsurance program
71.26(513B)	Uniform health insurance application form

CHAPTER 72

LONG-TERM CARE ASSET PRESERVATION PROGRAM

72.1(514H)	Purpose
72.2(514H)	Applicability and scope
72.3(514H)	Definitions
72.4(514H)	Qualification of long-term care insurance policies and certificates
72.5(514H)	Standards for marketing
72.6(514H)	Minimum benefit standards for qualifying policies and certificates
72.7(514H)	Required policy and certificate provisions
72.8(514H)	Prohibited provisions in certified policies or certificates
72.9(514H)	Reporting requirements
72.10(514H)	Maintaining auditing information
72.11(514H)	Reporting on asset protection
72.12(514H)	Preparing a service summary
72.13(514H)	Plan of action
72.14(514H)	Auditing and correcting deficiencies in issuer record keeping
72.15(514H)	Separability

CHAPTER 73

Reserved

CHAPTER 74

HEALTH CARE ACCESS

74.1(505)	Purpose
74.2(505)	Applicability and scope
74.3(505)	Definitions
74.4(505)	Access to health care or health insurance for an employee
74.5(505)	Employer participation
74.6(505)	Violation of chapter

CHAPTER 75

IOWA INDIVIDUAL HEALTH BENEFIT PLANS

75.1(513C)	Purpose
75.2(513C)	Definitions
75.3(513C)	Applicability and scope
75.4(513C)	Establishment of blocks of business
75.5(513C)	Transition for assumptions of business from another carrier
75.6(513C)	Restrictions relating to premium rates
75.7(513C)	Availability of coverage
75.8(513C)	Disclosure of information
75.9(513C)	Standards to ensure fair marketing
75.10(513C)	Basic health benefit plan and standard health benefit plan policy forms
75.11(513C)	Maternity benefit rider

75.12(513C)	Disclosure requirements
75.13(514C)	Treatment options
75.14(514C)	Emergency services
75.15(514C)	Provider access
75.16(513C,514C)	Diabetic coverage
75.17(513C)	Reconstructive surgery
75.18(514C)	Contraceptive coverage

CHAPTER 76 EXTERNAL REVIEW

76.1(514J)	Purpose
76.2(514J)	Applicable law and definitions
76.3(514J)	Disclosure requirements
76.4(514J)	External review request
76.5(514J)	Communication between covered person, health carrier, independent review organization and the commissioner
76.6(514J)	Assignment of independent review organization by the commissioner
76.7(514J)	Decision notification
76.8(514J)	Health carrier information
76.9(514J)	Certification of independent review organization
76.10(514J)	Fees charged by independent review organizations
76.11(514J)	Penalties

CHAPTER 77 MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

77.1(507A)	Purpose
77.2(507A)	Definitions
77.3(507A)	Self-insured multiple employer welfare arrangements
77.4(507A)	Fully insured multiple employer welfare arrangements
77.5(507A,513D)	Self-insured association health plans
77.6(507A)	Fully insured association health plans

CHAPTER 78 UNIFORM PRESCRIPTION DRUG INFORMATION CARD

78.1(514L)	Purpose
78.2(514L)	Definitions
78.3(514L)	Implementation

CHAPTER 79 PRIOR AUTHORIZATION—PRESCRIPTION DRUG BENEFITS

79.1(505)	Purpose
79.2(505)	Definitions
79.3(505)	Prior authorization protocols
79.4(505)	Filing with the division
79.5(505)	Violations
79.6(505)	Applicability

INSURANCE COVERAGE FOR PEDIATRIC PREVENTIVE SERVICES

CHAPTER 80 WELL-CHILD CARE

80.1(505)	Purpose
80.2(505)	Applicability and scope

- 80.3(505) Effective date
- 80.4(505) Policy definitions
- 80.5(505) Benefit plan

CHAPTER 81
POSTDELIVERY BENEFITS AND CARE

- 81.1(514C) Purpose
- 81.2(514C) Applicability and scope
- 81.3(514C) Postdelivery benefits

CHAPTERS 82 to 84
Reserved

CHAPTER 85
REGULATION OF NAVIGATORS

- 85.1(505,522D) Purpose and authority
- 85.2(505,522D) Definitions
- 85.3(505,522D) Requirement to hold a license
- 85.4(505,522D) Issuance of license
- 85.5(505,522D) License renewal
- 85.6(505,522D) License reinstatement
- 85.7(505,522D) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance
- 85.8(505,522D) Change in name, address or state of residence
- 85.9(505,522D) Licensing of a business entity
- 85.10(505,522D) Initial training of navigators
- 85.11(505,522D) Continuing education requirements for navigators
- 85.12(505,522D) Administration of examinations
- 85.13(505,522D) Fees
- 85.14(505,522D) Evidence of financial responsibility
- 85.15(505,522D) Practices
- 85.16(505,522D) Severability

CHAPTERS 86 to 89
Reserved

CHAPTER 90
FINANCIAL AND HEALTH INFORMATION REGULATION

- 90.1(505) Purpose and scope
- 90.2(505) Definitions

DIVISION I
RULES FOR FINANCIAL INFORMATION

- 90.3(505) Initial privacy notice to consumers required
- 90.4(505) Annual privacy notice to customers required
- 90.5(505) Information to be included in privacy notices
- 90.6(505) Form of opt-out notice to consumers and opt-out methods
- 90.7(505) Revised privacy notices
- 90.8(505) Delivery of notice
- 90.9(505) Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties
- 90.10(505) Limits on redisclosure and reuse of nonpublic personal financial information
- 90.11(505) Limits on sharing account number information for marketing purposes

- 90.12(505) Exception to opt-out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing
- 90.13(505) Exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions
- 90.14(505) Other exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information
- 90.15(505) Notice through a website
- 90.16(505) Licensee exception to notice requirement

DIVISION II
RULES FOR HEALTH INFORMATION

- 90.17(505) Disclosure of nonpublic personal health information
- 90.18(505) Authorizations
- 90.19(505) Delivery of authorization request
- 90.20(505) Relationship to federal rules
- 90.21(505) Relationship to state laws
- 90.22(505) Protection of Fair Credit Reporting Act
- 90.23(505) Nondiscrimination
- 90.24(505) Severability
- 90.25(505) Penalties
- 90.26(505) Effective dates
- 90.27 to 90.36 Reserved

DIVISION III
SAFEGUARDING CUSTOMER INFORMATION

- 90.37(505) Information security program
- 90.38(505) Examples of methods of development and implementation
- 90.39(505) Penalties
- 90.40(505) Effective date

CHAPTER 91
2001 CSO MORTALITY TABLE

- 91.1(508) Purpose
- 91.2(508) Definitions
- 91.3(508) 2001 CSO Mortality Table
- 91.4(508) Conditions
- 91.5(508) Applicability of the 2001 CSO Mortality Table to 191—Chapter 47, Valuation of Life Insurance Policies
- 91.6(508) Gender-blended table
- 91.7(508) Separability

CHAPTER 92
UNIVERSAL LIFE INSURANCE

- 92.1(508) Purpose and authority
- 92.2(508) Definitions
- 92.3(508) Scope
- 92.4(508) Valuation
- 92.5(508) Nonforfeiture
- 92.6(508) Mandatory policy provisions
- 92.7(508) Disclosure requirements
- 92.8(508) Periodic disclosure to policyowner
- 92.9(508) Interest-indexed universal life insurance policies
- 92.10(508) Applicability

CHAPTER 93
CONDUIT DERIVATIVE TRANSACTIONS

93.1(511,521A)	Purposes
93.2(511,521A)	Definitions
93.3(511,521A)	Provisions not applicable
93.4(511,521A)	Standards for conduit derivative transactions
93.5(511,521A)	Internal controls
93.6(511,521A)	Reporting requirements for conduit derivative transactions
93.7(511,521A)	Conduit ownership
93.8(511,521A)	Exemption from applicability

CHAPTER 94
PREFERRED MORTALITY TABLES FOR USE
IN DETERMINING MINIMUM RESERVE LIABILITIES

94.1(508)	Purpose
94.2(508)	Definitions
94.3(508)	2001 CSO Preferred Class Structure Mortality Table
94.4(508)	Conditions
94.5(508)	Separability

CHAPTER 95
DETERMINING RESERVE LIABILITIES FOR PRENEED LIFE INSURANCE

95.1(508)	Authority
95.2(508)	Scope
95.3(508)	Purpose
95.4(508)	Definitions
95.5(508)	Minimum valuation mortality standards
95.6(508)	Minimum valuation interest rate standards
95.7(508)	Minimum valuation method standards
95.8(508)	Transition rules
95.9(508)	Effective date

CHAPTER 96
SYNTHETIC GUARANTEED INVESTMENT CONTRACTS

96.1(505,508)	Authority
96.2(505,508)	Purpose
96.3(505,508)	Scope and application
96.4(505,508)	Definitions
96.5(505,508)	Financial requirements and plan of operation
96.6(505,508)	Required contract provisions and filing requirements
96.7(505,508)	Investment management of the segregated portfolio
96.8(505,508)	Purchase of annuities
96.9(505,508)	Unilateral contract terminations
96.10(505,508)	Reserves
96.11(505,508)	Severability
96.12(505,508)	Effective date

CHAPTER 97
ACCOUNTING FOR CERTAIN DERIVATIVE INSTRUMENTS USED TO HEDGE
THE GROWTH IN INTEREST CREDITED FOR INDEXED INSURANCE PRODUCTS
AND ACCOUNTING FOR THE INDEXED INSURANCE PRODUCTS RESERVE

97.1(508)	Authority
97.2(508)	Purpose

97.3(508)	Definitions
97.4(508)	Asset accounting
97.5(508)	Indexed annuity product reserve calculation methodology
97.6(508)	Indexed life product reserve calculation methodology
97.7(508)	Other requirements

CHAPTER 98

ANNUAL FINANCIAL REPORTING REQUIREMENTS

98.1(505)	Authority
98.2(505)	Purpose
98.3(505)	Definitions
98.4(505)	General requirements related to filing and extensions for filing of annual audited financial reports and audit committee appointment
98.5(505)	Contents of annual audited financial report
98.6(505)	Designation of independent certified public accountant
98.7(505)	Qualifications of independent certified public accountant
98.8(505)	Consolidated or combined audits
98.9(505)	Scope of audit and report of independent certified public accountant
98.10(505)	Notification of adverse financial condition
98.11(505)	Communication of Internal Control Related Matters Noted in an Audit
98.12(505)	Definition, availability and maintenance of independent certified public accountants' work papers
98.13(505)	Requirements for audit committees
98.14(505)	Internal audit function requirements
98.15(505)	Conduct of insurer in connection with the preparation of required reports and documents
98.16(505)	Management's Report of Internal Control Over Financial Reporting
98.17(505)	Exemptions
98.18(505)	Letter to insurer with accountant's qualifications
98.19(505)	Canadian and British companies
98.20(505)	Severability provision
98.21(505)	Effective date

CHAPTER 99

LIMITED PURPOSE SUBSIDIARY LIFE INSURANCE COMPANIES

99.1(505,508)	Authority
99.2(505,508)	Purpose
99.3(505,508)	Definitions
99.4(505,508)	Formation of LPS
99.5(505,508)	Certificate of authority
99.6(505,508)	Capital and surplus
99.7(505,508)	Plan of operation
99.8(505,508)	Dividends and distributions
99.9(505,508)	Reports and notifications
99.10(505,508)	Material transactions
99.11(505,508)	Investments
99.12(508)	Securities
99.13(505,508)	Permitted reinsurance
99.14(505,508)	Certification of actuarial officer
99.15(505,508)	Effective date

REGULATED INDUSTRIES

CHAPTER 100
SALES OF CEMETERY MERCHANDISE, FUNERAL MERCHANDISE
AND FUNERAL SERVICES

100.1(523A)	Purpose
100.2(523A)	Definitions
100.3(523A)	Contact and correspondence
100.4 to 100.9	Reserved
100.10(523A)	License status
100.11(523A)	Application for license
100.12(523A)	Processing of application for a license
100.13(523A)	Approval and denial of license applications; issuance of license
100.14(523A)	Continuing education requirements
100.15(523A)	License renewal
100.16(523A)	Prohibited activities related to licensing
100.17(523A)	Reinstatement of a restricted license
100.18(523A)	Payment of fees
100.19(523A)	Master trusts
100.20(523A)	Trust interest or income
100.21(523A)	Cancellation refunds
100.22(523A)	Consumer price index adjustment
100.23(523A)	Preneed seller's use of surety bond in lieu of trust
100.24	Reserved
100.25(523A)	Funeral and cemetery merchandise warehoused by preneed sellers
100.26 to 100.29	Reserved
100.30(523A)	Standards of conduct for preneed sellers and sales agents
100.31(523A)	Advertisements, sales practices and disclosures
100.32	Reserved
100.33(523A)	Records maintenance and retention
100.34(523A)	Changes in funding methods for or terms of purchase agreements
100.35(523A)	Preneed seller's change of ownership and cessation of business operations
100.36 to 100.39	Reserved
100.40(523A)	Prohibited practices for preneed sellers and sales agents
100.41(523A)	Disciplinary procedures

CHAPTER 101
BURIAL SITES AND CEMETERIES

101.1(523I)	Purpose
101.2(523I)	Definitions
101.3(523I)	Examination expenses assessment
101.4(523I)	Sale of insurance
101.5(523I)	Notice of disinterment
101.6(523I)	Cemeteries owned or operated by a governmental subdivision
101.7(523I)	Commingling of care fund accounts
101.8(523I)	Distribution of care fund amounts using a total return distribution method
101.9(523I)	Filing annual reports
101.10(523I)	Independent review

CHAPTER 102
IOWA RETIREMENT FACILITIES

102.1(523D)	Purpose and applicability
102.2(523D)	Definitions

102.3(523D)	Forms and filings
102.4(523D)	Standards for the disclosure statement
102.5(523D)	Certified financial statements, studies, and forecasts
102.6(523D)	Amendments to the disclosure statement
102.7(523D)	Records
102.8(523D)	Misrepresentations
102.9(523D)	Violations

CHAPTER 103

RESIDENTIAL AND MOTOR VEHICLE SERVICE CONTRACTS

103.1(523C)	Purpose
103.2(523C)	Definitions
103.3(523C)	Filings of forms, contracts and other items
103.4(523C)	Forms and instructions
103.5(523C)	Financial security deposits
103.6(523C)	Prohibited acts or practices
103.7(523C)	Service company licenses
103.8	Reserved
103.9(523C)	Financial statements and calculation of net worth
103.10(523C)	Records
103.11 to 103.14	Reserved
103.15(523C)	Violations

CHAPTERS 104 to 109

Reserved

CHAPTER 110

STANDARDS AND COMMISSIONER'S AUTHORITY FOR COMPANIES
DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION

110.1(505)	Authority
110.2(505)	Purpose
110.3(505)	Definition
110.4(505)	Standards
110.5(505)	Commissioner's authority
110.6(505)	Judicial review
110.7(505)	Separability
110.8(505)	Effective date

CHAPTER 111

CORPORATE GOVERNANCE ANNUAL DISCLOSURE

111.1(521H)	Purpose
111.2(521H)	Authority
111.3(521H)	Definitions
111.4(521H)	Filing procedures
111.5(521H)	Contents of corporate governance annual disclosure

CHAPTER 112

TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

112.1(521B)	Authority
112.2(521B)	Purpose and intent
112.3(521B)	Applicability
112.4(521B)	Exemptions
112.5(521B)	Definitions

- 112.6(521B) The actuarial method
- 112.7(521B) Requirements applicable to covered policies to obtain credit for reinsurance;
opportunity for remediation
- 112.8(521B) Severability
- 112.9(521B) Prohibition against avoidance

CHAPTER 113
CAPTIVE COMPANIES

- 113.1(521J) Authority
- 113.2(521J) Purpose
- 113.3(521J) Definitions
- 113.4(521J) Annual reporting requirements
- 113.5(521J) Risk limitation
- 113.6(521J) Annual audit
- 113.7(521J) Annual certification of loss reserves and loss expense reserves
- 113.8(521J) Designation of independent certified public accountant
- 113.9(521J) Consolidated or combined audits
- 113.10(521J) Notification of adverse financial condition
- 113.11(521J) Additional deposit requirement
- 113.12(521J) Availability and maintenance of work papers of the independent certified public
accountant
- 113.13(521J) Organizational examination
- 113.14(521J) Reinsurance
- 113.15(521J) Service providers
- 113.16(521J) Directors
- 113.17(521J) Conflict of interest
- 113.18(521J) Acquisition of control of or merger with domestic captive company
- 113.19(521J) Suspension or revocation
- 113.20(521J) Change of information in initial application
- 113.21(521J) Application and forms

CHAPTER 113
CAPTIVE COMPANIES

191—113.1(521J) Authority. This chapter is promulgated pursuant to the general rulemaking authority vested in the commissioner by Iowa Code section 521J.26.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.2(521J) Purpose. The purpose of this chapter is to set forth the financial, reporting, recordkeeping, and other requirements that the commissioner deems necessary for the regulation of captive companies.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.3(521J) Definitions. In addition to the definitions set forth in Iowa Code section 521J.1 and rule 191—1.1(502,505), the following definitions apply:

“*Captive manager*” means a person who is on the Iowa approved captive management firms list and, pursuant to a written contract with a captive company, provides and coordinates services including but not limited to accounting, statutory filings, signed annual statements and coordination of related services. The captive manager acts as an intermediary who facilitates and assists the captive company in meeting its statutory requirements under Iowa Code chapter 521J.

“*Work papers*” include, but are not necessarily limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and the accountant’s employees in the conduct of their audit of the captive company.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.4(521J) Annual reporting requirements.

113.4(1) A captive company authorized in this state shall file an annual report of its financial condition with the commissioner as required by Iowa Code section 521J.7(1). The report shall be verified by oath of at least two individuals who are executive officers of the captive company. The report shall be prepared using generally accepted accounting principles (GAAP). A hard copy shall be mailed and an electronic copy shall be filed consistent with directions from the commissioner.

113.4(2) All captive insurance companies are to use the Iowa Captive Company Annual Statement Form, except captive risk retention group insurers and special purpose captive companies, which shall use the National Association of Insurance Commissioners’ (NAIC’s) Annual and Quarterly Statements.

113.4(3) The Iowa Captive Company Annual Statement shall include a statement of a qualified actuary titled “statement of actuarial opinion” setting forth the opinion relating to loss and loss adjustment expense reserves.

113.4(4) A special purpose captive company domiciled in this state shall annually submit to the commissioner a material variances letter explaining any material differences between the captive company’s actual results and its projections on file. For the purposes of this rule, “materiality” shall be defined as 10 percent of surplus as regards policyholders as of the prior year end.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.5(521J) Risk limitation.

113.5(1) The commissioner may limit the net amount of risk a captive company retains for a single risk after considering the impact of the retention on the captive company’s capital and surplus.

113.5(2) The commissioner may also prescribe and demand additional capital and surplus of any captive company if the commissioner determines that the captive company is not adequately capitalized for the type, volume and nature of the risk that is being covered by the captive company.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.6(521J) Annual audit.

113.6(1) All companies shall have an annual audit by an independent certified public accountant, approved by the commissioner, and shall file such audited financial report with the commissioner on or

before June 1 for the preceding year. Financial statements furnished under this rule shall be prepared in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants.

113.6(2) The annual audit report shall be considered part of the captive company's annual report of financial condition, except with respect to the date by which it must be filed with the commissioner.

113.6(3) The annual audit shall consist of the following:

a. Opinion of independent certified public accountant.

(1) Financial statements furnished pursuant to this subrule shall be examined by independent certified public accountants in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants.

(2) The opinion of the independent certified public accountant shall cover all years presented.

(3) The opinion must be addressed to the captive company on stationery of the accountant showing the address of issuance, bear original manual signatures or be executed in conformance with Iowa Code chapter 554D and be dated.

b. Report of evaluation of internal controls.

(1) This report shall include an evaluation of the internal controls of the captive company relating to the methods and procedures used in securing of assets and the reliability of the financial records, including but not limited to controls of the system of authorization and approval and the separation of duties.

(2) The review shall be conducted in accordance with generally accepted auditing standards, and the report shall be filed with the commissioner.

c. Accountant's letter. The accountant shall furnish to the captive company, for inclusion in the filing of the audited annual report, a letter stating the following:

(1) The accountant is independent with respect to the captive company and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the Financial Accounting Standards Board;

(2) The general background and experience of the staff engaged in the audit, including their experience in auditing captive or other insurance companies;

(3) The accountant understands that the audited annual report and the opinions will be filed in compliance with this rule;

(4) The accountant consents to the requirements of rule 191—113.12(521J);

(5) The accountant consents and agrees to make the work papers as described in rule 191—113.3(521J) available for review by the commissioner, designee, or appointed agent; and

(6) The accountant is properly licensed by an appropriate state licensing authority.

d. Financial statements. The following financial statements are required:

(1) Balance sheet;

(2) Statement of gain or loss from operations;

(3) Statement of changes in financial position;

(4) Statement of cash flow;

(5) Statement of changes in capital paid up, gross paid in and contributed surplus and unassigned funds (surplus); and

(6) Notes to financial statements. The notes to financial statements shall be those required by generally accepted accounting principles and shall include:

1. Reconciliation of differences, if any, between the audited financial report and the statement or form filed with the commissioner;

2. Summary of ownership and relationship of the captive company and all affiliated corporations or companies insured by the captive; and

3. Narrative explanation of all material transactions with the captive company. For purposes of this provision, no transaction shall be deemed material unless it involves 3 percent or more of a captive company's admitted assets as of the prior year end.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.7(521J) Annual certification of loss reserves and loss expense reserves.

113.7(1) All companies shall submit an annual statement of actuarial opinion by a qualified actuary, evaluating the company's loss reserves and loss expense reserves or life and health policy and claim reserves. The statement of actuarial opinion shall conform to the Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries, the standards of the Casualty Actuarial Society, or the standards of the Society of Actuaries, as applicable, and such additional standards as the commissioner deems appropriate.

113.7(2) The individual who prepares the statement of actuarial opinion shall be approved by the commissioner and shall be a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries, a member in good standing of the Society of Actuaries, or an individual who has demonstrated competence to the commissioner.

113.7(3) The annual statement of actuarial opinion shall be considered part of the company's annual report of financial condition, except with respect to the date by which it must be filed with the commissioner.

113.7(4) With the exception of risk retention groups and special purpose financial insurance companies, all companies shall file such statement of actuarial opinion with the commissioner on or before June 30 for the year ending December 31 immediately preceding. Companies that have received approval to report on other than a calendar year basis shall file such opinion within 180 days after the end of their fiscal year.

113.7(5) A risk retention group domiciled in this state shall file such statement of actuarial opinion with the commissioner on or before March 1 and an actuarial opinion summary on or before March 15 for the year ending December 31 immediately preceding, written by the company's appointed actuary evaluating the company's loss reserves and loss expense reserves. The appointed actuary must be appointed by the board of directors, or its equivalent, or by a committee of the board, by December 31 of the calendar year for which the opinion is rendered. The appointed actuary must report to the board of directors each year on the items within the scope of the statement of actuarial opinion. The statement of actuarial opinion and the supporting actuarial report must be made available to the board of directors. The minutes of the board of directors should indicate that the appointed actuary has presented such information to the board of directors and that the statement of actuarial opinion and the supporting actuarial report were made available. The statement of actuarial opinion and the actuarial opinion summary shall be in the format of and contain the information required by the NAIC's Property and Casualty Annual Statement Instructions.

A special purpose financial insurance company domiciled in this state shall file such statement of actuarial opinion on or before June 30 for the year ending December 31 immediately preceding. The statement of actuarial opinion shall be in the format of and contain the information required by the NAIC's Life, Accident and Health Annual Statement Instructions or Property and Casualty Annual Statement Instructions, as applicable.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.8(521J) Designation of independent certified public accountant.

113.8(1) Captive companies, after becoming subject to this rule, shall within 90 days report to the commissioner in writing the name and address of the independent certified public accountant retained to conduct the annual audit set forth in this rule.

113.8(2) A certified public accountant that is retained to conduct the independent annual audit may only be appointed from the list of approved certified public accounting firms or individual certified public accountants maintained by the commissioner.

113.8(3) A captive company that terminates the appointment of an independent certified public accountant retained to conduct the annual audit required in this rule shall report the name and address of the certified public accountant in writing to the commissioner within 90 days after the appointment is terminated and shall, within the same period, report the name and address of the certified public accountant that is subsequently retained.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.9(521J) Consolidated or combined audits. A company may make written application to the commissioner for approval to submit a consolidated annual audit in lieu of separate annual audits if the company is part of a group of entities that consolidates its annual audit. In such cases, a consolidating or combining worksheet shall be prepared with the annual audit as follows:

113.9(1) Amounts for each captive company subject to this subrule shall be stated separately.

113.9(2) Noninsurance operations may be shown on the worksheet on a combined or individual basis.

113.9(3) Explanations of consolidating and eliminating entries shall be included.

113.9(4) A reconciliation shall be included of any differences between the amounts shown in the individual captive company columns of the worksheet and comparable amounts shown on the annual reports of such captive companies.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.10(521J) Notification of adverse financial condition. A captive company shall require its certified public accountant to immediately notify an officer and all members of the board of directors of the captive company in writing of any determination by the independent certified public accountant that the captive company has materially misstated its financial condition in its report to the commissioner. The captive company shall furnish such notification to the commissioner within five business days of receipt.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.11(521J) Additional deposit requirement.

113.11(1) Whenever the commissioner deems that the financial condition of a captive company warrants additional security, the commissioner may require the captive company to deposit, in trust for the captive company, cash, securities approved by the commissioner, or an irrevocable letter of credit issued by a bank chartered by the state of Iowa or a member bank of the Federal Reserve System with the commissioner.

113.11(2) The commissioner shall return the deposit or letter of credit of a captive company if the captive company ceases to do any business only after being satisfied that all obligations of the captive company have been discharged.

113.11(3) A captive company may receive interest or dividends from the deposit or exchange the deposits for others of equal value with the approval of the commissioner.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.12(521J) Availability and maintenance of work papers of the independent certified public accountant.

113.12(1) Each captive company shall require its independent certified public accountant to make all work papers prepared in the conduct of the audit of the captive company available for review by the commissioner or the commissioner's appointed agent. The captive company shall require that the accountant retain the audit work papers for a period of not less than seven years after the report period.

113.12(2) The review by the commissioner shall be considered an examination or investigation by the commissioner and all work papers obtained shall be confidential records. The captive company shall require that the independent certified public accountant provide photocopies of the work papers to the commissioner. The commissioner may retain any photocopies of work papers.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.13(521J) Organizational examination. In addition to the processing of the application, an organizational investigation or examination may be performed before an applicant captive company is licensed. Such examination or investigation shall consist of a general review of the applicant captive company's corporate records, including articles of incorporation, charters, bylaws, and minute books; feasibility study demonstrating the feasibility of the business plan of the captive company; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; and a review of such other factors as the commissioner deems necessary.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.14(521J) Reinsurance.

113.14(1) A captive company authorized to do business in this state may take credit for reserves on risk ceded to a reinsurer subject to the following requirements:

a. No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.

b. No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer based on the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

113.14(2) Reinsurance contracts shall be executed in writing setting forth the terms, provisions and conditions governing the reinsurance.

113.14(3) Copies of all reinsurance treaties and contracts will be filed and approved by the commissioner.

113.14(4) Reinsurance requirements for captive risk retention groups.

a. Permitted reinsurance.

(1) Captive risk retention groups shall not receive financial statement credit if all policies are ceded through 100 percent reinsurance arrangements, or any lesser percentage as determined in the sole discretion of the commissioner; and

(2) Credit for reinsurance will be permitted if the reinsurer complies with Iowa Code chapter 521B; or

(3) Credit for reinsurance will be permitted if the reinsurer maintains an A- or higher A.M. Best rating, or other comparable rating from a nationally recognized statistical rating organization; the reinsurer maintains minimum capital and surplus in an amount acceptable to the commissioner based upon a review of the reinsurer's most recent audited financial statements; and the reinsurer is licensed and domiciled in a jurisdiction acceptable to the commissioner; or

(4) Credit for reinsurance may be permitted if the reinsurer satisfies each of the following requirements and any other requirements deemed necessary by the commissioner:

1. The captive risk retention group shall file annually, on or before June 1, the reinsurer's audited financial statements, which shall be analyzed by the commissioner to assess the appropriateness of the reserve credit or the initial and continued financial condition of the reinsurer;

2. The reinsurer shall demonstrate to the satisfaction of the commissioner that it maintains a ratio of net written premium, wherever written, to surplus and capital of not more than three to one;

3. If the reinsurer is an affiliate of the captive risk retention group, the reinsurer shall not write third-party business without obtaining prior written approval from the commissioner. A reinsurer is affiliated, for the purpose of this subparagraph, with a risk retention group if more than 50 percent of the equity interests in such reinsurer are owned, directly or indirectly, by one or more of the members of the captive risk retention group;

4. The reinsurer shall not use cell arrangements without obtaining prior written approval from the commissioner;

5. The reinsurer shall be licensed and domiciled in a jurisdiction acceptable to the commissioner; and

6. The reinsurer shall submit to the examination authority of the commissioner.

b. The commissioner shall either require a reinsurer not domiciled in the United States to include language in the reinsurance agreement that states that in the event of the reinsurer's failure to perform its obligations under the terms of its reinsurance agreement, it shall submit to the jurisdiction of any court of competent jurisdiction in the United States, or shall require compliance with paragraph 113.14(4) "c."

c. For credit for reinsurance and solvency regulatory purposes, the commissioner may require an approved funds-held agreement, letter of credit, trust or other acceptable collateral based on unearned premium, loss and loss adjustment expense reserves, and incurred but not reported claims.

d. Upon application, the commissioner may waive either of the reinsurance requirements in subparagraph 113.14(4) "a"(2) or numbered paragraph 113.14(4) "a"(4) "6" in circumstances where the captive risk retention group or reinsurer can demonstrate to the satisfaction of the commissioner that the reinsurer is sufficiently capitalized based upon an annual review of the reinsurer's most recent

audited financial statements, the reinsurer is licensed and domiciled in a jurisdiction satisfactory to the commissioner, and the proposed reinsurance agreement adequately protects the captive risk retention group and its policyholders. Any such waiver should be included in the plan of operation, or any subsequent revision or amendment of the plan, pursuant to Section 3902(d)(1) of the Federal Liability Risk Retention Act of 1986, and the plan must be submitted by the risk retention group licensed as a captive to the commissioner of its state of domicile and each state in which the risk retention group licensed as a captive intends to do business or is currently registered. Any such waiver of a subrule 113.14(4) requirement constitutes a change in the risk retention group's plan of operation in each of those states.

e. Upon application, the commissioner may waive the requirement that a reinsurance arrangement must satisfy either paragraph 113.14(4) "b" or "c" in circumstances where the captive risk retention group or reinsurer can demonstrate to the satisfaction of the commissioner that the reinsurer is sufficiently capitalized based upon an annual review of the reinsurer's most recent audited financial statements, the reinsurer is licensed and domiciled in a jurisdiction satisfactory to the commissioner, and the proposed reinsurance agreement adequately protects the captive risk retention group and its policyholders. Any such waiver should be disclosed in Note 1 of the risk retention group's annual statutory financial statement.

f. Each approved captive manager or captive risk retention group shall assess the reinsurance programs of the risk retention groups licensed as captives under their management, and within 90 days of May 22, 2024, submit a written report to the commissioner indicating whether such risk retention groups licensed as captives are compliant with these rules. All captive risk retention groups failing to submit the report in a timely manner shall be examined, at the captive risk retention group's expense, to determine compliance with these rules.

g. Captive risk retention groups that require additional time to comply with these rules shall be permitted to take credit for reinsurance for risks ceded to reinsurers not in compliance with these rules for a period not to exceed 12 months from May 22, 2024, and contingent upon satisfactory demonstration to the commissioner that such delay of implementation will not cause a hazardous financial condition or potential harm to its member policyholders.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.15(521J) Service providers. No person shall act, in or from this state, as a captive manager, broker, producer, salesman, or reinsurance intermediary for captive business without authorization of the commissioner. Application for such authorization must be on a form prescribed by the commissioner.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.16(521J) Directors.

113.16(1) Every captive company shall report any change in its executive officers or directors to the commissioner within 30 days after a change is made, including, in its report, a biographical affidavit of any new executive officer or director.

113.16(2) No director, officer or employee of a captive company shall, except on behalf of the captive company, accept, or be the beneficiary of, any fee, brokerage, gift or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the captive company. Such person may receive reasonable compensation for necessary services rendered to the captive company in the person's usual private, professional or business capacity.

113.16(3) Any profit or gain received by or on behalf of any person in violation of this rule shall inure to and be recoverable by the captive company.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.17(521J) Conflict of interest.

113.17(1) Each captive company licensed in Iowa is required to adopt a conflict of interest statement for officers, directors, and key employees. The statement shall disclose that the individual has no outside commitments, personal or otherwise, that would divert the individual from their duty to further the

interests of the captive company that the individual represents, but this shall not preclude a person from being a director or officer in more than one insurance company.

113.17(2) Each officer, director and key employee shall file a yearly disclosure with the board of directors.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.18(521J) Acquisition of control of or merger with domestic captive company. No person shall make a tender offer for, or enter into any agreement to exchange securities for, or seek to acquire, or acquire in the open market or otherwise, any interest in a domestic captive company if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such company as defined in Iowa Code section 521A.1(3), and no person shall enter into an agreement to merge with or otherwise to acquire control of a captive company, without the prior written approval of the commissioner. In considering any application for acquisition of control or merger with a domestic captive company, the commissioner shall consider all the facts and circumstances surrounding the application and the criteria for establishment of a captive company set out in this rule.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.19(521J) Suspension or revocation. The commissioner may, by order, suspend or revoke the license of a captive company or place the same on probation on the following grounds:

113.19(1) The captive company has not commenced business according to its plan of operation within two years of being licensed;

113.19(2) The captive company has ceased to write business;

113.19(3) The captive company so requests; or

113.19(4) Any reason provided in Iowa Code section 521J.9(1).

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.20(521J) Change of information in initial application.

113.20(1) Any material change in a captive company's business plan that was filed with the commissioner at the time of initial application and any subsequent amendment of the plan requires prior approval of the commissioner.

113.20(2) Any change in any other information filed with the initial application must be filed with the commissioner within 60 days after the change but does not require prior approval.

113.20(3) The captive company shall immediately notify the commissioner upon making changes in board members or officers of the captive company.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

191—113.21(521J) Application and forms.

113.21(1) Any person who wants to form a captive company shall make application to the commissioner for authority to conduct a captive company using the Application to Form a Captive Company.

113.21(2) One complete copy of the application, including forms, attachments, exhibits, and all other papers and documents filed as a part thereof, shall be filed electronically with the commissioner through the division's captive website, iid.iowa.gov/captive-insurance-companies. Accompanying fees may be made by personal delivery or mail addressed to the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315, Attention: Captive Insurance Administrator.

113.21(3) The application shall be signed in the manner prescribed in the application. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the application.

113.21(4) A captive company must include with its application a feasibility study demonstrating the feasibility of its business plan.

113.21(5) Forms for filing with the division are available on the division's website at iid.iowa.gov/captive-insurance-companies or by mailing a written request to the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315.

[ARC 7869C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 521J.

[Filed ARC 7869C (Notice ARC 7644C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTERS 114 to 139
Reserved

CHAPTER 140
BURIAL SITES AND CEMETERIES

[Prior to 11/13/13, see 191—Chapter 18]

Rescinded **ARC 2810C**, IAB 11/9/16, effective 12/14/16

ARCHITECTURAL EXAMINING BOARD[193B]**CHAPTER 1
DESCRIPTION OF ORGANIZATION**

- 1.1(544A,17A) Duties
- 1.2(544A,17A) Meetings
- 1.3(544A,17A) Certificates

**CHAPTER 2
LICENSURE**

- 2.1(544A,17A) Definitions
- 2.2(544A,17A) Licensure
- 2.3(17A,272C,544A) Renewal of certificates of licensure
- 2.4(544A,17A) Reinstatement of lapsed certificate of licensure to active status
- 2.5(544A) Reinstatement from inactive status to active status
- 2.6(544A,17A) Finding of probable cause for unlicensed practice
- 2.7(544A,272C) Responsibility for accuracy of applications
- 2.8(544A,272C) Application denial
- 2.9(544A,17A) Fee schedule

**CHAPTER 3
CONTINUING EDUCATION**

- 3.1(544A,272C) Continuing education
- 3.2(544A,272C) Definitions
- 3.3(544A,272C) Basic requirements
- 3.4(544A,272C) Authorized structured educational activities
- 3.5(544A,272C) Exemptions

**CHAPTER 4
RULES OF CONDUCT**

- 4.1(544A,17A) Rules of conduct

**CHAPTER 5
EXCEPTIONS**

- 5.1(544A) Definitions
- 5.2(544A) Exceptions
- 5.3(544A) Building use
- 5.4(544A) Exceptions matrix

**CHAPTER 6
DISCIPLINARY ACTION AGAINST LICENSEES**

- 6.1(544A,272C) Disciplinary action
- 6.2(544A,272C) Investigation of complaints
- 6.3(544A,272C) Peer investigative committee
- 6.4(544A,272C) Investigation report
- 6.5(544A,272C) Informal discussion
- 6.6(544A,272C) Decisions
- 6.7(544A,272C) Voluntary surrender

**CHAPTER 7
DISCIPLINARY ACTION—UNLICENSED PRACTICE**

- 7.1(544A,272C) Disciplinary action
- 7.2(544A,272C) Investigation of complaints
- 7.3(544A) Civil penalties against unlicensed person

CHAPTER 1
DESCRIPTION OF ORGANIZATION
[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

193B—1.1(544A,17A) Duties.

1.1(1) The purpose of the architectural examining board is to administer and enforce the provisions of Iowa Code chapter 544A with regard to the practice of architecture in the state of Iowa, including the examining of candidates, issuing licenses to practice architecture, assuring continuing competency through continued education, investigating violations and infractions of the architecture law, disciplining licensees, and imposing civil penalties against nonlicensees. To this end, the board has promulgated these rules to clarify the board's intent and procedures.

1.1(2) The primary mission of the board is to protect the public interest. All board rules foster the guiding policies and principles described in Iowa Code section 544A.5. The board and its licensees strive at all times to protect the public interest by promoting the highest standards of architecture.

1.1(3) The board maintains a roster of all architects authorized to practice architecture in the state.

1.1(4) Chairperson. The chairperson presides at all meetings, appoints all committees, and otherwise performs all duties pertaining to the office of the chairperson.

1.1(5) Vice chairperson. The vice chairperson, in the absence or incapacity of the chairperson, exercises the duties and possesses the powers of the chairperson.

1.1(6) Board administrator. The department of inspections, appeals, and licensing may employ a board administrator who will maintain all necessary records of the board and perform all duties in connection with the operation of the board office. The board administrator determines when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator submits to the board any questionable application.

[ARC 7756C, IAB 4/17/24, effective 5/22/24]

193B—1.2(544A,17A) Meetings. Calls for meetings are issued in accordance with Iowa Code section 21.4. The first meeting scheduled after April 30 is the annual meeting. The chairperson and vice chairperson are elected to serve until their successors are elected. The newly elected officers assume the duties of their respective offices at the conclusion of the meeting at which they are elected. Officers may serve no more than three consecutive one-year terms in each office to which they are elected. Special meetings may be called by the chairperson or board administrator, who will set the time and place of the meeting.

[ARC 7756C, IAB 4/17/24, effective 5/22/24]

193B—1.3(544A,17A) Certificates. Certificates issued to successful applicants contain the licensee's name and state license number. All licenses are renewable biennially on July 1, with licensees whose last names begin with the letters A through K renewing in even-numbered years and licensees whose last names begin with the letters L through Z renewing in odd-numbered years as provided in rule 193B—2.5(544A).

The board will maintain an electronic roster of those holders of certificates of licensure who have failed to renew.

[ARC 7756C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 544A.5, 544A.8 through 544A.10, and 272C.4.

[Filed 4/8/70, amended 1/2/74]

[Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]

[Filed 3/15/78, Notice 11/30/77—published 4/5/78, effective 5/10/78]

[Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]

[Filed 2/7/83, Notice 12/22/82—published 3/2/83, effective 4/6/83]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 3/30/89, Notice 1/25/89—published 4/19/89, effective 5/24/89]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]
[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]
[Filed 6/15/95, Notice 4/26/95—published 7/5/95, effective 8/9/95]
[Filed 9/20/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]
[Filed 3/21/97, Notice 2/12/97—published 4/9/97, effective 5/14/97]
[Filed 4/30/98, Notice 12/31/97—published 5/20/98, effective 6/24/98]
[Filed 5/13/99, Notice 2/24/99—published 6/2/99, effective 7/7/99]
[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]
[Filed ARC 1505C (Notice ARC 1251C, IAB 12/25/13), IAB 6/25/14, effective 7/30/14]
[Filed ARC 2674C (Notice ARC 2480C, IAB 3/30/16), IAB 8/17/16, effective 9/21/16]
[Filed ARC 3331C (Notice ARC 3169C, IAB 7/5/17), IAB 9/27/17, effective 11/1/17]
[Filed ARC 5563C (Notice ARC 5355C, IAB 12/30/20), IAB 4/21/21, effective 5/26/21]
[Filed ARC 7756C (Notice ARC 7435C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 2 LICENSURE

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

193B—2.1(544A,17A) Definitions. The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Applicant*” means an individual who has submitted an application for licensure to the board.

“*Architectural intern*” or “*intern architect*” means an individual who holds a professional degree from a NAAB-accredited program or the equivalent as deemed by the board, has completed or is currently enrolled in the National Council of Architectural Registration Boards (NCARB) Architectural Experience Program (AXP), and intends to actively pursue licensure by completing the Architect Registration Examination.

“*ARE*” means the current Architect Registration Examination, as prepared and graded by the NCARB.

“*AXP applicant*” means an individual who has completed the AXP training requirements set forth in the NCARB Architectural Experience Program Guidelines and has submitted an application for licensure to the board.

“*Examination*” means the current Architect Registration Examination (ARE) accepted by the board.

“*Inactive*” means that an architect is not engaged in Iowa in any practice for which a certificate of licensure is required, including architects who have retired from active practice.

“*Issuance*” means the date of mailing of a decision or order or the date of delivery if service is by other means unless another date is specified in the order.

“*NAAB*” means the National Architectural Accrediting Board.

“*NCARB*” means the National Council of Architectural Registration Boards. The NCARB Architect Registration Examination Guidelines, NCARB Architectural Experience Program Guidelines, and NCARB Certification Guidelines are available through the National Council of Architectural Registration Boards, 1401 H Street NW, Suite 500, Washington, DC 20005; NCARB’s website, www.ncarb.org; or the board.

“*NCARB Architect Registration Examination (ARE) Guidelines*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards in February 2024. The document outlines the requirements for examination.

“*NCARB Architectural Experience Program Guidelines*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards in May 2020. The document outlines the requirements for training.

“*NCARB Certification Guidelines*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards in July 2022. The document outlines the requirements for licensure as an architect.

“*NCARB Education Guidelines*” or “*NCARB Education Standards*” means the edition of a document by the same title published by the National Council of Architectural Registration Boards in December 2023. The document outlines the requirements for licensure as an architect.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.2(544A,17A) Licensure. All applicants for licensure will complete an online application form.

2.2(1) Examination. To be eligible for licensure by examination, all applicants will have obtained an accredited professional architectural degree from the NAAB, have passed all divisions of the ARE prepared and provided by the NCARB, have completed the NCARB Architectural Experience Program, and have attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office. Upon receipt of the council record from NCARB, the board will provide the applicant with an application for licensure form, which must be completed and returned to the board within three months of receipt of the council record. The board shall issue a license number to the applicant upon receipt of the completed application form and appropriate fee.

a. Examinations for licensure as an architect shall be conducted by the board or its authorized representative.

(1) The board shall make use of the ARE prepared and graded by NCARB under a plan of cooperation with the architectural examining boards of all states and territories of the United States.

(2) The board may make use of a testing service selected by NCARB to administer the examination, provided the examination is held in at least one location within the boundaries of this state.

b. Examination admittance requirements.

(1) Have completed the eligibility requirements of the education standards for NCARB certification, which include a professional degree from a program accredited by the NAAB or other NCARB-approved education program, or be a student actively participating in an NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within an NCARB-approved education program.

(2) Be enrolled in or have completed the NCARB AXP.

NCARB shall notify the testing service of the applicant's eligibility prior to the applicant's scheduling of an examination.

c. AXP eligibility requirements will be verified and satisfied in accordance with the NCARB Architectural Experience Program Guidelines. Documentation of AXP training units will be submitted on AXP report forms published by NCARB and will be verified by signatures of the licensed architects serving as the intern architect's supervisors in accordance with the requirements outlined in the NCARB Architectural Experience Program Guidelines. The completed AXP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation.

2.2(2) Reciprocity. The board or the board administrator may waive examination requirements for applicants who, at the time of application, are licensed as architects in a different jurisdiction and hold an active NCARB certificate. All such applicants who hold an active NCARB certificate are deemed to possess qualifications that are substantially equivalent to those required of applicants for initial licensure in this state. An active NCARB council certificate shall be transmitted to and filed in the board office. Upon receipt of the certificate from NCARB, the board will provide the applicant with an application for licensure form, which must be completed and returned to the board within three months of receipt of the council certificate.

2.2(3) Verification. The board may grant registration via verification as provided for in 193—Chapter 14.

2.2(4) Military service and veteran reciprocity. The board may grant registration for military service applicants, spouses, and veterans as provided for in 481—Chapter 7.

2.2(5) Applicants seeking architectural commission in Iowa. A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being licensed in this state if:

a. The person holds an NCARB certificate; and

b. The person holds a current and valid license issued by a licensing authority recognized by this state; and

c. The person notifies the board in writing on a form provided by the board that the person:

(1) Holds an NCARB certificate and a current and valid license issued by a licensing authority recognized by this state,

(2) Is not currently licensed in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and

(3) Has no previous or pending disciplinary action by any licensing authority; and

d. The person delivers a copy of the notice referred to in paragraph 2.2(5)“c” to every potential client to whom the person offers to provide architectural services; and

e. The person provides the board with a sworn statement of intent to apply immediately to the board for licensure if selected as the architect for a project in this state.

The person is prohibited from actually providing architectural services until the person has been issued a valid license in this state.

2.2(6) Board refusal to issue license. The board may refuse to issue a certificate of licensure to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended

or may otherwise discipline a licensee based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action” includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.3(17A,272C,544A) Renewal of certificates of licensure.

2.3(1) Active status. Certificates of licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a licensee is required to renew the certificate of licensure prior to July 1 of the year of expiration. A licensee who fails to renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.4(544A,17A).

a. A licensee whose last name begins with the letter A through K will renew in even-numbered years, and a licensee whose last name begins with the letter L through Z will renew in odd-numbered years. However, a license issued on or after May 1 but before June 30 will not expire until June 30 of the next renewal. For example, a license issued on May 17, 2020, would not expire until June 30, 2022.

b. It is the policy of the board to send to each licensee a notice of the pending expiration date at the licensee’s last-known address approximately one month prior to the date the certificate of licensure is scheduled to expire. The notice, when provided, may be by email communication. Failure to receive this notice does not relieve the licensee of the responsibility to timely renew the certificate and pay the renewal fee. A licensee should contact the board office if the licensee does not receive a renewal notice prior to the date of expiration.

c. Upon the board’s receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board’s administrator will issue a new certificate of licensure reflecting the next expiration date unless grounds exist for denial of the application.

d. If grounds exist to deny a timely and sufficient application to renew, the board will send notification to the applicant. Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board will proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board’s decision as provided in 193—subrule 7.40(1).

e. When a licensee appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), and after or in lieu of giving the licensee an opportunity to come into compliance under 193B—subrule 3.3(3), offer a licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.40(1).

f. The board may notify a licensee whose certificate of licensure has expired. The failure of the board to provide this courtesy notification or the failure of the licensee to receive the notification will not extend the date of expiration.

g. A licensee who continues to practice architecture in Iowa after the license has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a licensee’s application for reinstatement.

2.3(2) Inactive status. This subrule establishes a procedure under which a person issued a certificate of licensure as an architect may apply to the board to be licensed as inactive. Licensure under this subrule is available to a license holder who is not engaged in Iowa in any practice for which licensure as an architect is required. A person eligible to be licensed as inactive may, as an alternative to such licensure, allow the certificate of licensure to lapse. During any period of inactive status, a person may use the title “inactive architect” or “retired architect,” but may not use the sole title of “architect” or any other title that might imply that the person is offering services as an architect by such an action in violation of Iowa Code section 544A.15. The board will continue to maintain a database of persons licensed as inactive, including information that is not routinely maintained after a certificate has lapsed through the person’s failure to renew. A person who is licensed as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board.

a. Affirmation. The renewal application form will contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193B—2.5(544A).

b. Renewal. A person licensed as inactive may renew the person’s certificate of licensure on the biennial schedule described in this rule. This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in rule 193B—2.9(544A,17A). An inactive certificate of licensure will lapse if not timely renewed.

c. Permitted practices. A person may, while licensed as inactive, perform for a client, business, employer, government body, or other entity those services that may lawfully be provided by a person to whom a certificate of licensure has never been issued. Such services may be performed as long as the person does not in connection with such services use the title “architect” or any other title restricted for use only by architects pursuant to Iowa Code section 544A.15 (without additional designations such as “inactive” or “retired”). Restricted titles may be used only by active architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

d. Prohibited practices. A person who, while licensed as inactive, engages in any of the practices described in Iowa Code sections 544A.15 and 544A.16 is subject to disciplinary action.

e. Exemption. A person whose license as an architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for inactive status unless, upon appropriate application, the board first reinstates the license to good standing.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.4(544A,17A) Reinstatement of lapsed certificate of licensure to active status. An individual may reinstate a lapsed certificate of licensure to active licensure as follows:

2.4(1) Pay the current renewal fee.

2.4(2) Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired licensure up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25 per month shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active architect license is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

2.4(3) Provide a written statement outlining the applicant’s professional activities performed in Iowa during the period in which the individual was unlicensed. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

2.4(4) Submit documented evidence of completion of 24 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 12 continuing education hours for each year or portion of a year of expired licensure up to a maximum of 48 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193B—Chapter

3. The hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status. The continuing education hours used for reinstatement may not be used again at the next renewal.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.5(544A) Reinstatement from inactive status to active status. An individual may reinstate an inactive license to an active license as follows:

2.5(1) Pay one-half of the current active license fee.

2.5(2) Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status. The hours used to reinstate to active status cannot again be used to renew.

a. At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of licensure to active status, the person shall not be required to report continuing education hours.

b. At the first biennial renewal date of July 1 that is 12 months or more, but less than 24 months, from the date of the filing of the application to restore the certificate of licensure to active status, the person shall report 12 hours of previously unreported continuing education hours.

2.5(3) Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of inactive licensure.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.6(544A,17A) Finding of probable cause for unlicensed practice. The board may find probable cause to file charges for unlicensed practice if the individual continues to offer services defined as the practice of architecture outlined in Iowa Code section 544A.16 while using the title “architect,” “architectural designer,” or similar designation during the period of lapsed licensure.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.7(544A,272C) Responsibility for accuracy of applications. The architect is responsible for verifying the accuracy of the information submitted on an application regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of an architect’s firm submits an application for renewal on behalf of the architect and that information is incorrect, the architect will be held responsible for the information and may be subject to disciplinary action.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.8(544A,272C) Application denial. An application may be denied on the grounds provided in Iowa Code chapter 544A and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure. The board may also deny a license on the grounds of submitting a false statement or submission of material fact on an application for licensure.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

193B—2.9(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB.

Initial license fee	\$50
(plus \$5 per month until renewal)	
Reciprocal application and license fee	\$200
Verification application and license fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Reinstatement of lapsed individual license	\$100 + renewal fee + \$25 per month or partial month of expired license
Reinstatement of inactive individual license	\$100
Duplicate wall certificate fee	\$50
License predetermination fee	\$25
Fee for return of payment	\$30

All fees are nonrefundable.

[ARC 7757C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 544A and 17A.

- [Filed 10/1/76, Notice 9/8/76—published 10/20/76, effective 12/8/76]
- [Filed 3/15/78, Notice 11/30/77—published 4/5/78, effective 5/10/78]
- [Filed 1/23/81, Notice 9/3/80—published 2/18/81, effective 3/25/81]
- [Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]
- [Filed 2/7/83, Notice 12/22/82—published 3/2/83, effective 4/6/83]
- [Filed 9/13/85, Notice 6/19/85—published 10/9/85, effective 11/13/85]
- [Filed 10/8/87, Notice 7/15/87—published 11/4/87, effective 12/9/87]
- [Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]
- [Filed 3/30/89, Notice 1/25/89—published 4/19/89, effective 5/24/89]
- [Filed 9/15/89, Notice 7/12/89—published 10/4/89, effective 11/8/89]
- [Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]
- [Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]
- [Filed 3/12/93, Notice 2/3/93—published 3/31/93, effective 5/5/93]
- [Filed 1/14/94, Notice 11/10/93—published 2/2/94, effective 3/23/94]
- [Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]
- [Filed 4/5/96, Notice 1/3/96—published 4/24/96, effective 5/29/96]
- [Filed 9/20/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]
- [Filed 4/30/98, Notice 12/31/97—published 5/20/98, effective 6/24/98]
- [Filed 11/12/98, Notice 6/17/98—published 12/2/98, effective 1/6/99]
- [Filed 11/12/98, Notice 8/12/98—published 12/2/98, effective 1/6/99]
- [Filed 5/13/99, Notice 2/24/99—published 6/2/99, effective 7/7/99]
- [Filed 1/12/00, Notice 10/20/99—published 2/9/00, effective 3/15/00]
- [Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]
- [Filed 9/26/02, Notice 6/12/02—published 10/16/02, effective 11/20/02]
- [Filed 1/30/03, Notice 12/11/02—published 2/19/03, effective 3/26/03]
- [Filed 7/21/04, Notice 6/9/04—published 8/18/04, effective 9/22/04]
- [Filed 9/20/05, Notice 7/6/05—published 10/12/05, effective 11/16/05]
- [Filed 9/20/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]
- [Filed 11/22/06, Notice 10/11/06—published 12/20/06, effective 1/24/07]
- [Filed 7/20/07, Notice 4/25/07—published 8/15/07, effective 9/19/07]

[Filed 9/21/07, Notice 8/15/07—published 10/10/07, effective 2/11/08]

[Filed ARC 7737B (Notice ARC 7545B, IAB 2/11/09), IAB 5/6/09, effective 6/10/09]

[Filed ARC 8638B (Notice ARC 8392B, IAB 12/16/09), IAB 4/7/10, effective 5/12/10]

[Filed ARC 1210C (Notice ARC 0978C, IAB 8/21/13), IAB 12/11/13, effective 1/15/14]

[Filed ARC 1504C (Notice ARC 1282C, IAB 1/8/14), IAB 6/25/14, effective 7/30/14]

[Filed ARC 1624C (Notice ARC 1501C, IAB 6/11/14), IAB 9/17/14, effective 10/22/14]

[Filed Emergency ARC 1985C, IAB 4/29/15, effective 4/10/15]

[Filed ARC 2674C (Notice ARC 2480C, IAB 3/30/16), IAB 8/17/16, effective 9/21/16]

[Filed ARC 3332C (Notice ARC 3170C, IAB 7/5/17), IAB 9/27/17, effective 11/1/17]

[Filed ARC 5563C (Notice ARC 5355C, IAB 12/30/20), IAB 4/21/21, effective 5/26/21]

[Filed ARC 7757C (Notice ARC 7436C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 3
CONTINUING EDUCATION
[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

193B—3.1(544A,272C) Continuing education. The following rules adopted by the architectural examining board are in compliance with Iowa Code chapter 544A and section 272C.2 requiring professional and occupational licensees to participate in a continuing education program as a condition of license renewal.

[ARC 7758C, IAB 4/17/24, effective 5/22/24]

193B—3.2(544A,272C) Definitions. The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Continuing education*” or “*CE*” means postlicensure learning that enables a licensed architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public’s health, safety, and welfare.

“*Continuing education hour*” or “*CEH*” means one continuous instructional hour (50 to 60 minutes of contact) spent in structured educational activities intended to increase or update the architect’s knowledge and competence in health, safety, and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity and if the prescribed time is not deemed unreasonable by the board, then such prescribed time will be accepted for CEH purposes as the architect’s time irrespective of actual time spent on the activity.

“*Distance learning*” means any education process based on the geographical separation of student and instructor. “Distance learning” includes computer-generated programs, webinars, and home-study/correspondence programs.

“*Health, safety, and welfare subjects*” means technical and professional subjects that the board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

1. Building systems: structural, mechanical, electrical, plumbing, communications, security, and fire protection.
2. Construction contract administration: contracts, bidding, and contract negotiations.
3. Construction documents: drawings, specifications, and delivery methods.
4. Design: urban planning, master planning, building design, site design, interiors, safety and security measures.
5. Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation.
6. Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, and insurance to protect owners and the public.
7. Materials and methods: construction systems, products, finishes, furnishings, and equipment.
8. Occupant comfort: air quality, lighting, acoustics, and ergonomics.
9. Predesign: land use analysis, programming, site selection, site and soils analysis, and surveying.
10. Preservation: historic, reuse, and adaptation.

“*Not engaged in active practice*” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

“*Retired from active practice*” means the same as “not engaged in active practice.”

“*Structured educational activities*” means educational activities in which at least 75 percent of an activity’s content and instructional time is to be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety, and welfare subjects and provided by qualified individuals or organizations, whether the courses of study or other activities are delivered by direct contact or distance learning methods.

[ARC 7758C, IAB 4/17/24, effective 5/22/24]

193B—3.3(544A,272C) Basic requirements.

3.3(1) To renew licensure, an architect must, in addition to meeting all other requirements, complete a minimum of 24 CEHs for each 24-month period since the architect's last renewal of initial licensure or be exempt from these continuing education requirements as provided in rule 193B—3.5(544A,272C). Failure to comply with these requirements may result in nonrenewal of the architect's license.

3.3(2) All 24 CEHs must be completed in health, safety, and welfare subjects acquired in structured educational activities. CEHs may be acquired at any location. Excess CEHs cannot be credited to the next renewal.

3.3(3) An architect will complete and submit forms as required by the board certifying that the architect has completed the required CEHs. Forms may be audited by the board for verification of compliance with these requirements. Documentation of reported CEHs will be maintained by the architect for two years after the period for which the form was submitted. Any discrepancy between the number of CEHs reported and the number of CEHs actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any CEHs, or the licensee has failed to complete the required CEHs, the architect will have 60 days from notification of the board to either provide further evidence of having completed the CEHs disallowed or remedy the disallowance by completing the required number of CEHs (provided that such CEHs are not used for the next renewal). An extension of time may be granted on an individual basis and must be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action. If the board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required CEHs, the architect may be subject to disciplinary action.

3.3(4) An architect who holds licensure in Iowa for less than 12 months from the date of initial licensure or who is reinstating to active status is not required to report CEHs at the first license renewal. An architect who holds licensure in Iowa for 12 months or more, but less than 23 months from the date of initial licensure or who is reinstating to active status, is required to report 12 CEHs earned in the preceding 12 months at the first license renewal.

[ARC 7758C, IAB 4/17/24, effective 5/22/24]

193B—3.4(544A,272C) Authorized structured educational activities. The following list may be used by all licensees in determining the types of activities that may fulfill CE requirements if the activities are conducted as structured educational activities on health, safety, and welfare subjects:

1. Short courses or seminars sponsored by colleges or universities.
2. Technical presentations held in conjunction with conventions or at seminars sponsored or accredited by the American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council, National Council of Architecture Registration Boards (NCARB), or similar organizations devoted to architectural education.
3. Distance learning sponsored by the AIA, NCARB, or similar organizations.
4. College or university credit courses. Each semester hour equals 12 CEHs. A quarter hour equals 8 CEHs.

[ARC 7758C, IAB 4/17/24, effective 5/22/24]

193B—3.5(544A,272C) Exemptions.

3.5(1) As provided in Iowa Code section 272C.2(4), a licensed architect will be deemed to have complied with the continuing education requirements set forth in this chapter if the architect attests in the required affidavit that for not less than 21 months of the preceding two-year period of licensure, the architect:

- a. Has served honorably on active duty in the military service; or
- b. Is a resident of another state or district having a continuing education requirement for licensure as an architect and has complied with all requirements of that state or district for practice therein; or
- c. Is a government employee working as an architect and assigned to duty outside the United States.

3.5(2) Architects who so attest on their affidavits that they are retired from active practice or are not engaged in active practice may maintain their licenses in retired or inactive status without satisfying

CE requirements. Such architects may, however, reenter practice only after satisfying the board of their proficiency. Proficiency may be established by any one of the following:

a. Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice up to a maximum of 48 CEHs.

b. Retaking the architectural registration examination.

c. Fulfilling alternative reentry requirements determined by the board that serve to assure the board of the current competency of the architect to engage in the practice of architecture.

3.5(3) The board may make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. More information is contained in 193—Chapter 5.

[ARC 7758C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 272C.2.

[Filed 9/27/78, Notice 8/23/78—published 10/18/78, effective 11/22/78]

[Filed 3/2/82, Notice 1/6/82—published 3/31/82, effective 5/5/82]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 3/30/89, Notice 12/28/88—published 4/19/89, effective 5/24/89]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]

[Filed 3/12/93, Notice 2/3/93—published 3/31/93, effective 5/5/93]

[Filed 1/14/94, Notice 11/10/93—published 2/2/94, effective 3/23/94]

[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]

[Filed 9/20/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]

[Filed 3/21/97, Notice 2/12/97—published 4/9/97, effective 5/14/97]

[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed ARC 1625C (Notice ARC 1500C, IAB 6/11/14), IAB 9/17/14, effective 10/22/14]

[Filed Emergency ARC 1985C, IAB 4/29/15, effective 4/10/15]

[Filed ARC 3022C (Notice ARC 2876C, IAB 1/4/17), IAB 4/12/17, effective 5/17/17]

[Filed ARC 3333C (Notice ARC 3171C, IAB 7/5/17), IAB 9/27/17, effective 11/1/17]

[Filed ARC 5563C (Notice ARC 5355C, IAB 12/30/20), IAB 4/21/21, effective 5/26/21]

[Filed ARC 7758C (Notice ARC 7437C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 4
RULES OF CONDUCT

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

193B—4.1(544A,17A) Rules of conduct. Failure by a licensee to adhere to the provisions of Iowa Code sections 272C.10 and 544A.13 and the following rules of conduct is grounds for disciplinary action.

4.1(1) Definition. The following definition applies as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“Responsible charge” means the amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by a licensed architect applying the necessary professional standard of care, including but not limited to an architect’s integration of information from manufacturers, suppliers, installers; the architect’s consultants, owners, contractors; or other sources the architect reasonably trusts that is incidental to and intended to be incorporated into the architect’s technical submissions if the architect has coordinated and reviewed such information. Other review, or review and correction, of technical submissions after they have been prepared by others does not constitute the exercise of responsible charge because the reviewer has neither control over nor detailed professional knowledge of the content of such submissions throughout their preparation.

4.1(2) Competence.

a. In practicing architecture, an architect will act with reasonable care and competence and will apply the technical knowledge and skill that is ordinarily applied by architects of good standing practicing in the same locality.

b. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of all applicable state and municipal building laws and regulations, once having obtained such advice, an architect will not knowingly design a project in violation of these laws and regulations.

c. An architect may perform professional services only when the architect, together with those whom the architect may engage as consultants, is qualified by education, training and experience in the specific technical areas involved.

d. No person is permitted to practice architecture if, in the board’s judgment upon receipt of medical testimony or evidence, the person’s professional competence is substantially impaired by physical or mental disabilities.

4.1(3) Conflict of interest.

a. An architect may accept compensation for services from more than one party on a project if the circumstances are fully disclosed to and agreed to in writing by all interested parties in advance of payment of such compensation.

b. If an architect has any business association or direct or indirect financial interest that is substantial enough to influence the architect’s judgment in connection with the architect’s performance of professional services, the architect will fully disclose, in writing, to the client or employer the nature of the business association or financial interest, and if the client or employer objects to the association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

c. An architect may not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing the products.

d. When acting as the interpreter of building contract documents and the judge of contract performance, an architect will render decisions impartially, favoring neither party to the contract.

4.1(4) Full disclosure.

a. When making public statements on architectural questions, an architect will disclose when compensation is being received for making the statements.

b. An architect will accurately represent to a prospective or existing client or employer the architect’s qualifications, capabilities, and experience and the scope of the architect’s responsibility in connection with work for which the architect is claiming credit.

c. If, in the course of work on a project, an architect becomes aware of a decision taken by the employer or client against the architect's advice that violates applicable state or municipal building laws and regulations and that may, in the architect's judgment, adversely affect the safety to the public of the finished project, the architect will:

(1) Report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations,

(2) Refuse to consent to the decisions, and

(3) In circumstances where the architect reasonably believes that other decisions will be taken, notwithstanding the architect's objection, terminate the architect's services with reference to the project.

d. An architect will not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for licensure or renewal of license.

e. An architect will not assist the application for licensure of a person known by the architect to be unqualified in respect to education, training, experience or character.

f. An architect possessing knowledge of a violation of these rules by another architect will report the knowledge to the board.

4.1(5) Compliance with laws.

a. An architect will not, in the conduct of architectural practice, knowingly violate any state or federal criminal law. A "conviction" for purposes of this paragraph and Iowa Code section 544A.13 means a conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice the profession of architecture and includes the court's acceptance of a guilty plea, a deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction. A copy of the record of conviction, guilty plea, deferred judgment, or other finding of guilt is conclusive evidence. A licensed architect will notify the board of a conviction within 30 days of the conviction.

b. An architect will neither make nor offer to make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

c. An architect will comply with the licensing laws and regulations governing the architect's professional practice in any United States jurisdiction.

d. An Iowa-licensed architect will report to the board in writing any revocation, suspension, license denial, or other disciplinary action taken by a licensing authority in any other state or jurisdiction within 30 days of the final action.

4.1(6) Professional conduct.

a. Each office engaged in the practice of architecture will have an architect resident regularly employed in that office having responsible charge of such work or, in the situation of work performed remotely, immediately available to furnish assistance or direction throughout the performance of the work.

b. An architect may only sign or seal drawings, specifications, reports or other professional work for which the architect has direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of professional work prepared by the architect's consultants, licensed under this or another professional licensing law of this jurisdiction, the architect may sign or seal that portion of the professional work if the architect has reviewed that portion, has coordinated its preparation and intends to be responsible for its adequacy.

c. An architect will neither offer nor make any gifts to any public official with the intent of influencing the official's judgment in connection with a project in which the architect is interested. Nothing in this rule will bar an architect from providing architectural services as a charitable contribution.

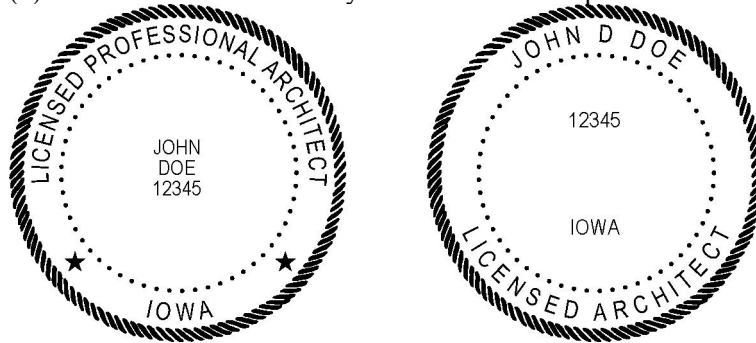
d. An architect will not engage in conduct involving fraud or wanton disregard of the rights of others.

e. Architects will adhere to the appropriate standards of conduct as outlined in the NCARB Model Rules of Conduct, dated July 2018, incorporated herein by reference.

4.1(7) Seal and certificate of responsibility.

a. The seal under Iowa Code section 544A.28 includes:

- (1) An outside circle with a diameter of approximately 1¼ inches.
- (2) The name of the licensed architect and the words “Licensed Architect”.
- (3) The Iowa license number and the word “Iowa”.
- (4) The seal will substantially conform to the samples shown below:



b. A legible rubber stamp, electronic image or other facsimile of the seal may be used.

c. Each technical submission submitted to a client or any public agency, hereinafter referred to as the official copy, will contain an information block on its first page or on an attached cover sheet with application of a seal by the architect in responsible charge and an information block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature will be applied only to a final technical submission. Each official copy of a technical submission will be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block will display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional will be designated in the area provided in the information block, so that responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block will substantially conform to the sample shown below:

S E A L	<p>I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly licensed architect under the laws of the state of Iowa.</p> <hr/> <p style="text-align: center;">Signature Date</p> <p>Printed or typed name _____</p> <p>License number _____</p> <p>My license renewal date is June 30, _____.</p> <p>Pages or sheets covered by this seal: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>
---------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

d. The information requested in each information block must be typed or legibly printed in permanent ink or a secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee's responsibility to ensure, prior to affixing an electronic signature to a technical submission, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

e. The architect who signed the original submission is responsible for forwarding copies of all changes and amendments to the technical submission, which becomes a part of the official copy of the technical submission, to the public official charged with the enforcement of the state, county, or municipal building code.

f. An architect is responsible for the custody and proper use of the seal. Improper use of the seal is grounds for disciplinary action.

g. The seal appearing on any technical submission establishes prima facie evidence that said technical submission was prepared by or under the responsible charge of the individual named on that seal.

4.1(8) Communications. An architect will, when requested, respond to communications from the board within 30 days of the mailing of such communication by certified mail. Failure to respond to such communication may be grounds for disciplinary action against the architect.

4.1(9) Architectural Experience Program supervisor. The Architectural Experience Program supervisor, formerly known as the Intern Development Program supervisor, will timely respond to a request to verify experience hours reported to the National Council of Architectural Registration Boards' Architectural Experience Program when requested by NCARB, the board, or a subordinate, associate, or intern who is, or has been, supervised by the Architectural Experience Program supervisor.

This rule is intended to implement Iowa Code chapters 17A and 544A.

[ARC 7759C, IAB 4/17/24, effective 5/22/24]

[Filed 2/7/83, Notice 12/22/82—published 3/2/83, effective 4/6/83]

[Filed 10/8/87, Notice 7/15/87—published 11/4/87, effective 12/9/87]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]

[Filed 1/14/94, Notice 11/10/93—published 2/2/94, effective 3/23/94]

[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]

[Filed 3/21/97, Notice 2/12/97—published 4/9/97, effective 5/14/97]

[Filed 7/24/98, Notice 5/20/98—published 8/12/98, effective 9/16/98]

[Filed 5/13/99, Notice 2/24/99—published 6/2/99, effective 7/7/99]

[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed 3/29/07, Notice 2/14/07—published 4/25/07, effective 5/30/07]

[Filed ARC 9359B (Notice ARC 9260B, IAB 12/15/10), IAB 2/9/11, effective 3/16/11]

[Filed ARC 3141C (Notice ARC 3015C, IAB 4/12/17), IAB 6/21/17, effective 7/26/17]

[Filed ARC 3334C (Notice ARC 3174C, IAB 7/5/17), IAB 9/27/17, effective 11/1/17]

[Filed ARC 5563C (Notice ARC 5355C, IAB 12/30/20), IAB 4/21/21, effective 5/26/21]

[Filed ARC 7759C (Notice ARC 7438C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 5 EXCEPTIONS

193B—5.1(544A) Definitions. The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules.

“Accessory buildings” means a building or structure of an accessory character and miscellaneous structures not classified in any specific occupancy or use. “Accessory buildings” are constructed, equipped and maintained to conform to the requirements corresponding to the fire and life hazard incidental to the buildings’ occupancy. “Accessory buildings” is intended to encompass the uses listed in Group U of the 2015 International Building Code®.

“Agricultural building” means a structure designed to house farm implements, hay, grain, poultry, livestock or other agricultural products. For the purpose of this definition, this structure does not contain habitable space or a place of employment where agricultural products are processed or treated or packaged; nor will it be a place used by the public.

“Alter” or *“alteration”* means any change, addition or modification to an existing building in its construction or occupancy.

“Church” means a building or portion thereof intended for the performance of religious services.

“Commercial” or *“commercial use”* means the following:

1. The use of a building or structure, or a portion thereof, for office, professional, or service-type transactions, including storage of records and accounts,

2. The use of a building or structure, or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, including wares or merchandise incidental to such purposes and accessible to the public.

“Commercial use” is intended to encompass the uses listed in Group B and Group M of the 2015 International Building Code®.

“Detached” means a structure separated by distance and not connected to another structure.

“Dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Educational use” means the use of a building or structure, or a portion thereof used (1) by six or more persons at any one time for education purposes through twelfth grade; or (2) by six or more children for day care purposes. Rooms and spaces within places of religious worship providing such day care during religious functions and day cares serving five or fewer children are classified as part of the primary occupancy. “Educational use” is intended to encompass the uses listed in Group E of the 2015 International Building Code®.

“Factory-built buildings” means any structure that is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. “Factory-built buildings” includes the terms “mobile home,” “manufactured home,” and “modular home.”

“Family dwelling unit” means the same as “dwelling unit.”

“Gross floor area” means the area included within the surrounding exterior walls of a building. Areas of the building not provided with surrounding walls are included in the building area if such areas are included within the horizontal projection of the supporting structure of the roof or floor above.

“Habitable space (room)” means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered “habitable space.”

“Hazardous use” means the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard. “Hazardous use” is intended to encompass the uses listed in Group H of the 2015 International Building Code®.

“Industrial use” means the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair, or processing operations that

are not classified as hazardous use. “Industrial use” is intended to encompass the uses listed in Group F of the 2015 International Building Code®.

“*Institutional use*” means the use of a building or structure, or a portion thereof, in which persons are receiving custodial or medical care, in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Day care facilities as defined in educational use are not considered institutional uses. “Institutional use” is intended to encompass the uses listed in Group I of the 2015 International Building Code®. Facilities with five or fewer persons receiving custodial care may be considered a residential use or be considered part of the primary occupancy as listed in Group I of the 2015 International Building Code®.

“*International Building Code*” is a model building code developed by the International Code Council. The 2015 International Building Code® is available from the state library of Iowa or the board or online at codes.iccsafe.org.

“*Light industrial*” means buildings not more than one story in height and not exceeding 10,000 square feet in gross floor area that involve fabrication or manufacturing of noncombustible materials that, during finishing, packing, or processing, are not classified as hazardous use.

“*Mixed building use*” means a building containing more than one use classification.

“*Nonstructural alterations*” means modifications to an existing building that do not include any changes to structural members of a building, or do not modify means of egress, handicap accessible routes, fire resistivity or other life safety concerns.

“*Occupancy*” means a purpose for which a building, or part thereof, is used or intended to be used.

“*Outbuildings*” means the same as “accessory buildings.”

“*Place of assembly of people or public gathering*” means the use of a building or structure, or a portion thereof, for the gathering of persons such as for civic, social, or religious functions; recreation, food or drink consumption; or awaiting transportation. “Place of assembly of people or public gathering” is intended to encompass the uses listed in Group A of the 2015 International Building Code®. Places of assembly with occupancy of fewer than 50 people are considered part of the primary occupancy.

“*Residential use*” means the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an institutional use. “Residential use” is intended to encompass the uses listed in Group R of the 2015 International Building Code®.

“*Story*” means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above.

“*Structural members*” consists of building elements that carry an imposed load of weight and forces in addition to their own weight including, but not limited to, loads imposed by forces of gravity, wind, and earthquake. Structural members include, but are not limited to, footings, foundations, columns, load-bearing walls, beams, girders, purlins, rafters, joists, trusses, lintels, and lateral bracing.

“*Use*” means the same as “occupancy.”

“*Warehouses*” or “*warehouse use*” means the use of a building or structure, or portion thereof, for storage that is not classified as a hazardous use. “Warehouse use” is intended to encompass the uses listed in Group S of the 2015 International Building Code®.

[ARC 7760C, IAB 4/17/24, effective 5/22/24]

193B—5.2(544A) Exceptions. An architect licensed in this state is required to perform professional architectural services for all buildings except those listed in Iowa Code section 544A.18.

[ARC 7760C, IAB 4/17/24, effective 5/22/24]

193B—5.3(544A) Building use. The following criteria are used when applying the exceptions outlined in Iowa Code section 544A.18 and rule 193B—5.2(544A):

5.3(1) *Building use takes priority over size.* In all cases, the use of the building takes priority over the size. For example, a place of assembly is not a commercial use, and would not constitute an exception even if the building is not more than one story in height and does not exceed more than 10,000 square feet in gross floor area.

5.3(2) *Mixed building use.* In the case that a building contains more than one use, the most stringent use is applied to the entire building when applying the exceptions. For example, a two-story building

containing a 6,000 square foot commercial space as well as 6,000 square feet of residential space on the second floor would be considered a 12,000 square foot, two-story commercial building for the purposes of the exception matrix.

5.3(3) Agricultural buildings. Activities inherent to housing farm implements, farm inputs, farm products, and livestock or other agricultural products, such as recordkeeping, sanitation, storage of farm inputs, or equipment preparation, repair, or modifications, are not to be construed as a use in and of itself for the purposes of applying the exceptions. For example, welding operations to repair an implement or grain-handling equipment would not trigger the consideration of an agricultural building or a portion of the building as an industrial use.

5.3(4) Churches and accessory buildings. When under the height and gross floor area noted in the exception and encompassing uses inherent to a church or an accessory building as defined, these buildings are exempted, even if the use within the building would normally not be exempted. For example, a church used as a place of assembly with occupancy of more than 50 people but still under the height and gross floor area noted would still be exempted even though the occupancy would place the building in the nonexempted category.

[ARC 7760C, IAB 4/17/24, effective 5/22/24]

193B—5.4(544A) Exceptions matrix. The following matrix is compiled to illustrate the exceptions outlined in Iowa Code section 544A.18. The laws and rules governing the practice of engineering are not illustrated herein.

BUILDINGS NEW CONSTRUCTION			
Building Use Type	Description	Architect Required	Architect May Not Be Required
Agricultural use	Including grain elevators and feed mills		X
Churches and accessory buildings whether attached or separate	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
	Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
	More than two stories in height	X	
Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
	Two stories in height, greater than 6,000 square feet of gross floor area	X	
	More than two stories in height	X	
Detached residential use	One, two or three stories in height, containing 12 or fewer family dwelling units		X
	More than 12 family dwelling units	X	
	More than three stories in height	X	
	Outbuildings in connection with detached residential buildings		X
Educational use		X	
Hazardous use		X	
Industrial use		X	
Institutional use		X	
Light industrial use			X
Places of assembly		X	

BUILDINGS NEW CONSTRUCTION			
Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
	One story in height, greater than 10,000 square feet in gross floor area	X	
	More than one story in height	X	
Factory-built buildings	Any height and size, if certified by a professional engineer licensed under Iowa Code chapter 542B		X
	One or two stories in height, up to a maximum of 20,000 square feet in gross floor area		X
	One or two stories in height, greater than 20,000 square feet in gross floor area	X	
	More than two stories in height	X	
	More than 20,000 square feet in gross floor area	X	

ALTERATIONS TO EXISTING BUILDINGS				
Alteration Type	Description	Architect Required	Architect May Not Be Required	
Structural alterations to exempt buildings	Modifications that change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns		X	
Structural alterations to nonexempt buildings	Modifications that change the structural members, means of egress, handicap accessible path, fire resistivity or other life safety concerns	X		
Nonstructural alteration	That does not modify means of egress, handicap accessible path, fire resistivity or other life safety concerns		X	
	That maintains the previous type of use		X	
Nonstructural alteration that changes the use of the building from any other use to:	A place of assembly of people or public gathering	X		
	Educational use	X		
	Hazardous use	X		
	Residential use exempted	and is one, two or three stories in height and contains not more than 12 family dwelling units		X
	Residential use not exempted otherwise	and is more than three stories in height	X	
and containing more than 12 family dwelling units		X		
Nonstructural alterations that change the use of the building from industrial or warehouse to:	Commercial or office use	and is one story in height and not greater than a maximum of 10,000 square feet in gross floor area		X
		and is one story in height and greater than 10,000 square feet in gross floor area	X	
		and is two stories in height and not greater than a maximum of 6,000 square feet in gross floor area		X
		and is two stories in height and greater than 6,000 square feet in gross floor area	X	
		and is more than two stories in height	X	
		and is greater than 10,000 square feet of gross floor area	X	

ALTERATIONS TO EXISTING BUILDINGS				
Nonstructural alterations to:	Agricultural use	Including grain elevators and feed mills		X
	Churches and accessory building uses	One or two stories in height, up to a maximum of 2,000 square feet in gross floor area		X
		Any number of stories in height, greater than 2,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Commercial use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		Two stories in height, up to a maximum of 6,000 square feet in gross floor area		X
		Two stories in height, greater than 6,000 square feet in gross floor area	X	
		More than two stories in height	X	
	Detached residential buildings	One, two or three stories in height, containing 12 or fewer family dwelling units		X
		More than 12 family dwelling units	X	
		More than three stories in height	X	
		Outbuildings in connection with detached residential buildings		X
	Educational use		X	
	Hazardous use		X	
	Industrial use		X	
	Institutional use		X	
	Light industrial use			X
	Places of assembly		X	
	Warehouse use	One story in height, up to a maximum of 10,000 square feet in gross floor area		X
		One story in height, greater than 10,000 square feet in gross floor area	X	
		More than one story in height	X	
	Factory-built buildings	Any height and size if entire building is certified by a professional engineer licensed under Iowa Code chapter 542B		X
		One or two stories in height, up to a maximum of 20,000 square feet of gross floor area		X
		One or two stories in height, greater than 20,000 square feet in gross floor area	X	
		More than two stories in height	X	
		More than 20,000 square feet in gross floor area	X	

[ARC 7760C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 544A.18.

[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed ARC 3335C (Notice ARC 3172C, IAB 7/5/17), IAB 9/27/17, effective 11/1/17]

[Filed ARC 3853C (Notice ARC 3661C, IAB 2/28/18), IAB 6/20/18, effective 7/25/18]

[Filed ARC 7760C (Notice ARC 7439C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 6
DISCIPLINARY ACTION AGAINST LICENSEES

[Previously Ch 4; Ch 5, IAB 3/2/83]

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

[Prior to 10/3/01, see 193B—Chapter 5]

193B—6.1(544A,272C) Disciplinary action. The architectural examining board has authority in Iowa Code chapters 544A, 17A and 272C to impose discipline for violations of these chapters and the rules promulgated thereunder.

[ARC 7761C, IAB 4/17/24, effective 5/22/24]

193B—6.2(544A,272C) Investigation of complaints. The board will, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions that the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the chairperson will investigate the allegations of the complaint. If the board determines that the complaint does not present facts that constitute a basis for disciplinary action, the board may take no further action.

[ARC 7761C, IAB 4/17/24, effective 5/22/24]

193B—6.3(544A,272C) Peer investigative committee. A peer investigative committee may be appointed by the chairperson to investigate a complaint. The committee members will consist of one or more architects who have been licensed to practice in Iowa for at least five years, serving at the discretion of the chairperson. The committee will review and determine the facts of the complaint and make a report to the board in a timely manner.

[ARC 7761C, IAB 4/17/24, effective 5/22/24]

193B—6.4(544A,272C) Investigation report. Upon completion of the investigation, the investigator(s) will prepare for the board's consideration a report containing the position or defense of the licensee to determine what further action is necessary. The board may:

1. Order the matter be further investigated.
2. Allow the licensee who is the subject of the complaint an opportunity to appear before a committee of the board for an informal discussion regarding the circumstances of the alleged violation.
3. Determine there is no probable cause to believe a disciplinary violation has occurred and close the case.
4. Determine there is probable cause to believe that a disciplinary violation has occurred.

[ARC 7761C, IAB 4/17/24, effective 5/22/24]

193B—6.5(544A,272C) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion.

Unless disqualification is waived by the licensee, board members who personally investigated a disciplinary complaint are disqualified from making decisions at a later formal hearing. Because board members generally rely upon staff, investigators, auditors, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making, licensees who desire to attend an informal discussion will therefore waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not

disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges will be filed simultaneously with the consent order.
[ARC 7761C, IAB 4/17/24, effective 5/22/24]

193B—6.6(544A,272C) Decisions. The board will make findings of fact and conclusions of law and may take one or more of the following actions:

6.6(1) Dismiss the charges.

6.6(2) Revoke the architect's license.

6.6(3) Suspend the licensee's license as authorized by law.

6.6(4) Impose civil penalties, not to exceed \$1,000. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code sections 544A.13 and 544A.15 and these rules. Factors the board may consider when determining whether to assess civil penalties and the amount to assess include:

- a. Whether other forms of discipline are being imposed for the same violation.
- b. Whether the amount imposed will be a substantial deterrent to the violation.
- c. The circumstances leading to the violation.
- d. The severity of the violation and the risk of harm to the public.
- e. The economic benefits gained by the licensee as a result of the violation.
- f. The interest of the public.
- g. Evidence of reform or remedial action.
- h. Time lapsed since the violation occurred.
- i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j. The clarity of the issues involved.
- k. Whether the violation was willful and intentional.
- l. Whether the licensee acted in bad faith.
- m. The extent to which the licensee cooperated with the board.
- n. Whether the licensee practiced architecture with a lapsed, inactive, suspended or revoked certificate of licensure.

6.6(5) Impose a period of probation, either with or without conditions.

6.6(6) Require reexamination, using one or more parts of the examination given to architectural licensee candidates.

6.6(7) Require additional professional education, reeducation, or continuing education.

6.6(8) Issue a citation and a warning.

6.6(9) Issue a consent order.

[ARC 7761C, IAB 4/17/24, effective 5/22/24]

193B—6.7(544A,272C) Voluntary surrender. Voluntary surrender of licensure is considered as disciplinary action. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

[ARC 7761C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 544A.13 and chapter 272C.

[Filed 9/29/78, Notice 8/23/78—published 10/18/78, effective 11/22/78]

[Filed 2/7/83, Notice 12/22/82—published 3/2/83, effective 4/6/83]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]
[Filed 12/6/91, Notice 10/3/91—published 12/25/91, effective 1/29/92]
[Filed 3/12/93, Notice 2/3/93—published 3/31/93, effective 5/5/93]
[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]
[Filed 4/5/96, Notice 1/3/96—published 4/24/96, effective 5/29/96]
[Filed 2/21/97, Notice 1/1/97—published 3/12/97, effective 4/16/97]
[Filed 4/30/98, Notice 12/31/97—published 5/20/98, effective 6/24/98]
[Filed 11/12/98, Notice 8/12/98—published 12/2/98, effective 1/6/99]
[Filed 5/13/99, Notice 2/24/99—published 6/2/99, effective 7/7/99]
[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]
[Filed ARC 3336C (Notice ARC 3173C, IAB 7/5/17), IAB 9/27/17, effective 11/1/17]
[Filed ARC 5563C (Notice ARC 5355C, IAB 12/30/20), IAB 4/21/21, effective 5/26/21]
[Filed ARC 7761C (Notice ARC 7440C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 7
DISCIPLINARY ACTION—UNLICENSED PRACTICE

[Previously Ch 4; Ch 5, IAB 3/2/83]

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

[Prior to 10/3/01, see 193B—Chapter 5]

193B—7.1(544A,272C) Disciplinary action. The architectural examining board has authority in Iowa Code chapters 544A, 17A and 272C to impose discipline for violations of these chapters and the rules promulgated thereunder.

[ARC 7762C, IAB 4/17/24, effective 5/22/24]

193B—7.2(544A,272C) Investigation of complaints. The board will, upon receipt of a complaint in writing, or may, upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts that the board reasonably believes constitute cause under applicable law or administrative rules. In order to determine if probable cause exists for a hearing on a complaint, the investigators designated by the chairperson will investigate the allegations of the complaint. If the board determines that the complaint does not present facts that constitute a basis for disciplinary action, the board may take no further action.

[ARC 7762C, IAB 4/17/24, effective 5/22/24]

193B—7.3(544A) Civil penalties against unlicensed person. The board may impose civil penalties by order against a person who is not licensed as an architect pursuant to Iowa Code chapter 544A based on the unlawful practices specified in Iowa Code section 544A.15(3). In addition to the procedures set forth in Iowa Code section 544A.15(3), this rule applies.

7.3(1) The notice of the board's intent to impose a civil penalty required by Iowa Code section 544A.15(3) may be served upon the unlicensed person by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 1.305. Alternatively, the unlicensed person may accept service personally or through authorized counsel. The notice includes the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty.
- e. Notice of the unlicensed person's right to a hearing and the time frame in which a hearing is requested.
- f. The address to which written request for hearing is made.

7.3(2) Unlicensed persons need to request a hearing in writing within 30 days of the date the notice is mailed, if served through restricted certified mail to the last-known address, or within 30 days of the date of service, if service is accepted or made in accordance with Rule of Civil Procedure 1.305. A request for hearing is deemed made on the date of the United States Postal Service postmark or the date of personal service.

7.3(3) If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

7.3(4) If a request for hearing is timely made, the board issues a notice of hearing and conducts a hearing in the same manner as applicable to disciplinary cases against licensed architects.

7.3(5) In addition to the factors set forth in Iowa Code section 544A.15(3), the board may consider the following when determining the amount of civil penalty to impose, if any:

- a. The time lapsed since the unlawful practice occurred.
- b. Evidence of reform or remedial actions.
- c. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
- d. Whether the violation involved an element of deception.

e. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.

f. The clarity of the issue involved.

g. Whether the violation was willful and intentional.

h. Whether the unlicensed person acted in bad faith.

i. The extent to which the unlicensed person cooperated with the board.

7.3(6) An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty at any stage of the proceeding upon mutual consent of the board.

7.3(7) The notice of intent to impose civil penalty and order imposing civil penalty are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, the National Council of Architectural Registration Boards, and other entities. Hearings are open to the public.

[ARC 7762C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 544A.15.

[Filed 9/29/78, Notice 8/23/78—published 10/18/78, effective 11/22/78]

[Filed 2/7/83, Notice 12/22/82—published 3/2/83, effective 4/6/83]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 12/6/91, Notice 10/3/91—published 12/25/91, effective 1/29/92]

[Filed 3/12/93, Notice 2/3/93—published 3/31/93, effective 5/5/93]

[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]

[Filed 4/5/96, Notice 1/3/96—published 4/24/96, effective 5/29/96]

[Filed 2/21/97, Notice 1/1/97—published 3/12/97, effective 4/16/97]

[Filed 4/30/98, Notice 12/31/97—published 5/20/98, effective 6/24/98]

[Filed 11/12/98, Notice 8/12/98—published 12/2/98, effective 1/6/99]

[Filed 5/13/99, Notice 2/24/99—published 6/2/99, effective 7/7/99]

[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed ARC 3142C (Notice ARC 3014C, IAB 4/12/17), IAB 6/21/17, effective 7/26/17]

[Filed ARC 3337C (Notice ARC 3175C, IAB 7/5/17), IAB 9/27/17, effective 11/1/17]

[Filed ARC 5563C (Notice ARC 5355C, IAB 12/30/20), IAB 4/21/21, effective 5/26/21]

[Filed ARC 7762C (Notice ARC 7441C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

REAL ESTATE COMMISSION[193E]

[Prior to 6/15/88, see Real Estate Commission[700]]

**CHAPTER 1
ADMINISTRATION**

- 1.1(543B) Mission of the commission
- 1.2(543B) Correspondence and communications
- 1.3(543B) Meetings of the commission
- 1.4(543B) Custodian of records, filings, and requests for public information
- 1.5(543B) Investigation and subpoena
- 1.6(543B) Impaired licensee review committees

**CHAPTER 2
DEFINITIONS**

- 2.1(543B) Definitions

**CHAPTER 3
BROKER LICENSE**

- 3.1(543B) Broker licensure
- 3.2(543B) License examination
- 3.3(543B) Application for broker license
- 3.4(543B) Broker continuing education
- 3.5(17A,272C,543B) Renewing a broker license
- 3.6(272C,543B) Reinstatement of an expired broker license

**CHAPTER 4
SALESPERSON LICENSE**

- 4.1(543B) General criteria for salesperson license
- 4.2(543B) License examination
- 4.3(543B) Application for salesperson license
- 4.4(543B) Salesperson continuing education requirements
- 4.5(543B) Renewing a license
- 4.6(272C,543B) Reinstatement of an expired salesperson license

**CHAPTER 5
LICENSEES OF OTHER JURISDICTIONS AND RECIPROCITY**

- 5.1(543B) Licensees of other jurisdictions
- 5.2(543B) Nonresident application
- 5.3(543B) License by examination
- 5.4(543B) Licensure by reciprocity
- 5.5(543B) Renewal of a license issued by reciprocity
- 5.6(543B) Reinstatement of a license issued by reciprocity
- 5.7(543B) Nonresident real estate offices and licenses required
- 5.8(543B) Actions against nonresidents
- 5.9(543B) Nonresident continuing education
- 5.10(543B) License discipline reporting
- 5.11(543B) Licensure by verification

**CHAPTER 6
TERMINATION AND TRANSFER**

- 6.1(543B) Terminating employment or association
- 6.2(543B) Transfer of license and necessary transfer application

CHAPTER 7
OFFICES AND MANAGEMENT

- 7.1(543B) Real estate offices and licenses needed
- 7.2(543B) Notification needed
- 7.3(543B) Suspended and revoked licenses
- 7.4(543B) Barred practices
- 7.5(543B) Loan finder fees
- 7.6(543B) Lotteries barred
- 7.7(543B) Broker needed to furnish progress report
- 7.8(543B) Disclosure of licensee interest, acting as a principal, and status as a licensee
- 7.9(543B) Financial interest disclosure needed
- 7.10(543B) Agency-designated broker responsibilities
- 7.11(543B) Supervision needed
- 7.12(543B) Commission controversies
- 7.13(543B) Support personnel for licensees; permitted and barred activities
- 7.14(543B) Information provided by nonlicensed support personnel limited
- 7.15(543B) Presenting purchase agreements

CHAPTER 8
CLOSING A REAL ESTATE BUSINESS

- 8.1(543B) Closing a real estate firm
- 8.2(543B) Involuntary closing of a sole-proprietor brokerage
- 8.3(543B) Involuntary closing of a corporation, partnership, or association brokerage firm

CHAPTER 9
FEES

- 9.1(543B) Fees
- 9.2(543B) Refunds and bad payments
- 9.3(543B) Examination fee

CHAPTER 10
ADVERTISING

- 10.1(543B) Advertising
- 10.2(543B) Advertising under own name
- 10.3(543B) Signs on property

CHAPTER 11
BROKERAGE AGREEMENTS AND LISTINGS

- 11.1(543B) Listing brokerage agreements
- 11.2(543B) Enforcing a protective clause
- 11.3(543B) Brokerage agreements
- 11.4(543B) Terms or conditions
- 11.5(543B) Distribution of executed instruments
- 11.6(543B) Rebates and inducements
- 11.7(543B) New construction

CHAPTER 12
DISCLOSURE OF RELATIONSHIPS

- 12.1(543B) Written company policy needed
- 12.2(543B) Disclosure of agency
- 12.3(543B) Single agent representing a seller or landlord
- 12.4(543B) Single agent representing a buyer or tenant
- 12.5(543B) Disclosed dual agent

- 12.6(543B) Appointed agents within a brokerage
- 12.7(543B) Appointed agent procedures and disclosure

CHAPTER 13
TRUST ACCOUNTS AND CLOSINGS

- 13.1(543B) Trust account
- 13.2(543B) Closing transactions
- 13.3(543B) Salesperson cannot handle closing
- 13.4(543B) Consent to return earnest money not necessary
- 13.5(543B) File recordkeeping
- 13.6(543B) Licensee acting as a principal

CHAPTER 14
SELLER PROPERTY CONDITION DISCLOSURE

- 14.1(543B) Property condition disclosure

CHAPTER 15
PROPERTY MANAGEMENT

- 15.1(543B) Property management

CHAPTER 16
PRELICENSE EDUCATION AND CONTINUING EDUCATION

- 16.1(543B) Definitions
- 16.2(543B) Salesperson prelicense criteria
- 16.3(543B) Broker prelicense education criteria
- 16.4(543B) Continuing education criteria
- 16.5(543B) Continuing education records
- 16.6(543B) Reactivating an inactive license
- 16.7(543B) Full-time attendance
- 16.8(543B) Education criteria for out-of-state licensees
- 16.9(543B) Examination as a substitute for continuing education
- 16.10(543B) Use of prelicense courses as continuing education
- 16.11(543B) Requests for prior approval or postapproval of a course(s)

CHAPTER 17
APPROVAL OF SCHOOLS, COURSES AND INSTRUCTORS

- 17.1(543B) Administrative criteria for schools, courses and instructors
- 17.2(543B) Certificates of attendance
- 17.3(543B) Instructors taking license examinations for auditing purposes
- 17.4(543B) Continuing education credit for instructors
- 17.5(543B) Acceptable course topics
- 17.6(543B) Nonqualifying courses
- 17.7(543B) Standards for approval of courses of instruction
- 17.8(543B) Responsibilities of instructors and course developers
- 17.9(543B) Standards for approval of classroom courses
- 17.10(543B) Standards for approval of distance learning courses
- 17.11(543B) Standards for approval of paper and pencil home-study courses
- 17.12(543B) Qualifying as an instructor

CHAPTER 18
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

- 18.1(17A,272C,543B) Disciplinary and investigative authority
- 18.2(17A,272C,543B) Grounds for discipline
- 18.3(17A,272C,543B) Initiation of disciplinary investigations

- 18.4(272C,543B) Sources of information
- 18.5(17A,272C,543B) Conflict of interest
- 18.6(272C,543B) Complaints
- 18.7(272C,543B) Case numbers
- 18.8(272C,543B) Confidentiality of complaint and investigative information
- 18.9(17A,272C,543B) Investigation procedures
- 18.10(17A,272C,543B) Informal discussion
- 18.11(17A,272C,543B) Closing complaint files
- 18.12(17A,272C,543B) Initiation of disciplinary proceedings
- 18.13(17A,272C,543B) Disciplinary contested case procedures
- 18.14(272C,543B) Disciplinary sanctions
- 18.15(17A,272C,543B) Reinstatement

CHAPTER 19

REQUIREMENTS FOR MANDATORY ERRORS AND OMISSIONS INSURANCE

- 19.1(543B) Insurance definitions
- 19.2(543B) Insurance criteria—general
- 19.3(543B) Other coverage
- 19.4(543B) Administrative criteria—general
- 19.5(543B) Commission responsibilities
- 19.6(543B) Compliance
- 19.7(543B) Records and retention

CHAPTER 20

TIME-SHARE FILING

- 20.1(557A) Time-share interval filing fees

CHAPTER 21

ENFORCEMENT PROCEEDINGS AGAINST UNLICENSED PERSONS

- 21.1(17A,543B) Civil penalties against unlicensed persons
- 21.2(17A,543B) Unlawful practices
- 21.3(17A,543B) Investigations
- 21.4(17A,543B) Subpoenas
- 21.5(17A,543B) Notice of intent to impose civil penalty
- 21.6(17A,543B) Requests for hearings
- 21.7(17A,543B) Alternative procedure
- 21.8(17A,543B) Factors to consider
- 21.9(17A,543B) Enforcement options

CHAPTER 1
ADMINISTRATION

[Prior to 6/15/88, see Real Estate Commission[700] Ch 1]

[Prior to 9/4/02, see 193E—Chs 2, 5, 7, 8]

193E—1.1(543B) Mission of the commission. The mission of the Iowa real estate commission is to protect the public through the examination, licensing, and regulation of real estate brokers, salespersons, and firms pursuant to Iowa Code chapter 543B, Real Estate Brokers and Salespersons; to administer Iowa Code chapter 543C, Sales of Subdivided Land Outside of Iowa; and to administer Iowa Code chapter 557A, Time-Shares.

The commission is a policymaking body with authority to promulgate rules for the regulation of the real estate industry consistent with all applicable statutes. Administrative support services are furnished by the professional licensing and regulation division of the department of inspections, appeals, and licensing. The commission or duly authorized representative may inspect subdivided land outside of Iowa pursuant to Iowa Code section 543C.4.

[ARC 7763C, IAB 4/17/24, effective 5/22/24]

193E—1.2(543B) Correspondence and communications. Correspondence and communications with the commission should be addressed or directed to the commission office.

[ARC 7763C, IAB 4/17/24, effective 5/22/24]

193E—1.3(543B) Meetings of the commission. Meetings of the commission are held at times scheduled by the commission in the offices of the commission or at a place designated by the commission. Special meetings may be called by the chairperson or executive officer of the commission, who sets the time and place of the meeting.

[ARC 7763C, IAB 4/17/24, effective 5/22/24]

193E—1.4(543B) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the department of inspections, appeals, and licensing or the professional licensing and regulation division, the commission is the principal custodian of its own agency orders, statements of law or policy issued by the commission, legal documents, and other public documents on file with the commission.

1.4(1) Any person may examine public records promulgated or maintained by the commission at its office during regular business hours.

1.4(2) Records, documents and other information may be gathered, stored, and available in electronic format. Information, various forms, documents, and the license law and rules may be reviewed or obtained at any time by the public from the commission's website.

1.4(3) Deadlines. Unless the context dictates otherwise, any deadline for filing a document that falls on a Saturday, Sunday, or official state holiday will be extended to the next working day.

[ARC 7763C, IAB 4/17/24, effective 5/22/24]

193E—1.5(543B) Investigation and subpoena. Commission rules regarding investigations and investigatory subpoenas may be found in 193E—Chapter 18 and in the uniform rules for the professional licensing and regulation division at 193—Chapter 6.

[ARC 7763C, IAB 4/17/24, effective 5/22/24]

193E—1.6(543B) Impaired licensee review committees. Commission rules governing impaired licensee review committees may be found in the uniform rules for the professional licensing and regulation division at 193—Chapter 12.

[ARC 7763C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 252J, 261, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

[Filed ARC 7763C (Notice ARC 7442C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 2 DEFINITIONS

[Prior to 6/15/88, see Real Estate Commission[700] Ch 2]
[Prior to 9/4/02, see 193E—1.1(543B) and 193E—2.2(543B)]

193E—2.1(543B) Definitions.

“Additional license” means any officer or partner license(s) issued based upon and dependent or contingent upon the primary or main officer or partner license, but assigned to a different corporation or partnership.

“Advance fees” means any fees charged for services to be paid in advance of the rendering of such services including, without limitation, any fees charged for listing, advertising, or offering for sale or lease any real property, but excluding any fees paid solely for advertisement in a newspaper of general circulation.

“Affiliated licensee” means a broker associate or salesperson, as defined in Iowa Code section 543B.5(5) and 543B.5(19), who is under the supervision of a broker.

“Applicant” means a person who has applied for or intends to apply for a real estate salesperson or real estate broker license.

“Application form” means the form furnished by the commission to be completed and submitted to apply for an original license as a real estate salesperson, real estate broker, real estate firm or trade name.

“Branch office license” means the same as “duplicate license” as used in Iowa Code section 543B.31.

“Broker” means any person holding an Iowa real estate broker license as defined in Iowa Code section 543B.3.

“Brokerage agreement” means the same as defined in Iowa Code section 543B.5(7).

“Broker associate” means the same as defined in Iowa Code section 543B.5(5).

“Buyer” includes a purchaser, tenant, vendee, lessee, party to an exchange, or grantee of an option. Selected rules in these chapters will at times refer separately to “buyers” and “tenants” to clarify licensees’ duties and obligations.

“Client” means the same as defined in Iowa Code section 543B.5(9).

“Commission” means the real estate commission.

“Common source information companies” means any individual, corporation, limited liability company, business trust, estate, trust, partnership, association, or any other legal entity (except any government or governmental subdivision or agency, or any officer or employee thereof acting in such individual’s official capacity) that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

“Completed application” means an original or renewal application timely received with all necessary information, documents, signatures, fees or penalties.

“Confidential information” means information made confidential by statute, regulation, or express instructions from the client. Confidential information does not include “material adverse facts” as defined in Iowa Code section 543B.5(14). Confidential information includes, but is not limited to, the following:

1. Information concerning the client that, if disclosed to the other party, could place the client at a disadvantage when bargaining;
2. That the seller or landlord is willing to accept less than the asking price or lease price for the property;
3. That the buyer or tenant is willing to pay more than the asking price or lease price for the property;
4. The motivating factors for the party selling or leasing the property;
5. The motivating factors for the party buying or leasing the property;
6. That the seller or landlord will agree to sale, lease, or financing terms other than those offered;
7. That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;
8. The seller’s or landlord’s real estate needs;
9. The buyer’s or tenant’s real estate needs;

10. The seller's or landlord's financial information, except that the seller's ability to sell and the landlord's ability to lease are considered a material fact;

11. The buyer's or tenant's financial qualifications, except that the buyer's ability to buy and the tenant's ability to lease are considered a material fact.

Confidential information is not disclosable unless one of the following applies:

1. The client to whom the information pertains provides informed written consent to disclose the information;

2. The disclosure is mandated by statute or regulation, or failure to disclose the information would constitute fraudulent representation;

3. The information is made public or becomes public by the words or conduct of the client to whom the information pertains or from a source other than the licensee; or

4. The disclosure is necessary to defend the licensee against an accusation of wrongful conduct in an actual or threatened judicial proceeding, an administrative proceeding before the commission, or in a proceeding before a professional committee.

"Consumer" means a person seeking or receiving real estate brokerage services.

"Contract between the buyer and seller" means an offer to purchase, a sales contract, an option, a lease-purchase option, an offer to lease, or a lease.

"Conviction" means the same as defined in Iowa Code section 543B.15(3).

"Customer" means a consumer of real estate services in connection with a real estate transaction who is not being represented by the licensee, but for whom the licensee may perform ministerial acts. A customer may be a client of another broker, may have yet to decide whether or not to be represented by any broker, or may have chosen not to be represented by any broker.

"Designated broker" means the broker or broker associate designated as the person in charge of and responsible for supervision of a main office or branch office as defined in Iowa Code section 543B.5(11).

"Dual agent" means a licensee who, with the written informed consent of all the parties to a contemplated real estate transaction, has entered into a brokerage agreement with and therefore represents the seller and buyer or both the landlord and tenant in the same in-house transaction.

"Duplicate license" or *"replacement license"* means a license reissued for the remainder of a license term, at the written request of the broker, to replace a lost or destroyed license.

"Electronic format" means a record generated, communicated, received, or stored by electronic means, and is in a format that has the continued capability to be retrieved and legibly printed upon request.

"Examination" means a licensure examination necessary before issuance of a license.

"Examinee" means a person who has registered or intends to register to take a licensure examination.

"Filed" means that documents or application and fees are considered filed with the commission on the date postmarked, not the date metered, or on the date personally delivered to the commission office.

"Firm" means a licensed partnership, association, limited liability company, or corporation.

"Licensee" means the same as defined in Iowa Code section 543B.5(13).

"Listing broker" means the real estate broker who obtains a listing of real estate or of an interest in a residential cooperative housing corporation.

"Ministerial acts" means those acts that a licensee may perform for a consumer that are informative in nature and do not rise to the level of specific assistance on behalf of a consumer. For purposes of these rules, ministerial acts include, but are not limited to, the following:

1. Responding to general telephone inquiries by consumers as to the availability and pricing of brokerage services;

2. Responding to general telephone inquiries from a consumer concerning the price, facts and features, or location of property;

3. Attending an open house and responding to general questions from a consumer about the facts and features of the property;

4. Setting an appointment to view property;

5. Responding to general questions of consumers walking into a licensee's office concerning brokerage services offered or the facts and features of particular properties;

6. Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;
7. Describing the facts and features of a property or the property's condition in response to a consumer's inquiry;
8. Completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client;
9. Showing a client through a property being sold by an owner; or
10. Referring a person to another broker or service provider.

"Moral turpitude" means an act of baseness, vileness, or depravity, in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. It is conduct that is contrary to justice, honesty and good morals. Various factors may cause an offense which is generally not regarded as constituting moral turpitude to be regarded as such. A crime of moral turpitude as specified in Iowa Code section 543B.15(3) shall include without limitation forcible felonies as delineated in Iowa Code section 702.11.

"Original license" means the license of a salesperson, broker, or firm that covers the first term of licensure in Iowa. A license applied for and reissued after the final deadline for renewal of a license is also an original license.

"Primary license" or *"main license"* means the original license issued based upon examination, including any subsequent renewals or reinstatements of the license. Continuing education is necessary to renew to active status.

"Principal broker" means a broker who is either a real estate proprietor, a partner in a real estate partnership, or an officer in a real estate corporation.

"Renewal application form" means the form furnished by the commission to be completed and submitted to apply for renewal of a license as a real estate salesperson, real estate broker, real estate firm, branch office or trade name.

"Salesperson" means any person holding an Iowa real estate salesperson license as defined in Iowa Code section 543B.5(19).

"Seller" includes an owner, landlord, vendor, lessor, party to an exchange, or grantor of an option. Selected rules in these chapters will at times refer separately to "sellers" and "landlords" to clarify licensees' duties and obligations.

"Selling broker" means a real estate broker who finds and obtains a buyer in a transaction.

"Single agent" means a licensee who represents only one party in a real estate transaction. A single agent includes a broker and any affiliated broker associates or salespersons representing a party exclusively or nonexclusively, regardless of whether the single agent be all affiliated broker associates or salespersons, or only the identified broker associates or salespersons, or a group of identified broker associates or salespersons. A single agent may be one of the following:

1. "Seller's agent," which means a licensee who represents the seller in a real estate transaction;
 2. "Landlord's agent," which means a licensee who represents the landlord in a leasing transaction;
 3. "Buyer's agent," which means a licensee who represents the buyer in a real estate transaction;
- and
4. "Tenant's agent," which means a licensee who represents the tenant in a leasing transaction.

"Sole-proprietor broker" means an individual or single license broker who privately owns and manages a real estate company.

"Specific assistance" means any communication beyond casual conversation concerning the facts and features of a property which occurs prior to the point of discussing price range or any specific, financial qualifications of the buyer or tenant, or selling or buying motives or objectives of the seller or buyer, or tenant or landlord, or eliciting or accepting information involving a proposed or preliminary offer associated with a specific property, in which the person may unknowingly divulge any confidential personal or financial information, which, if disclosed to the other party, could harm the party's bargaining position. For the purposes of these rules, "specific assistance" does not include preliminary conversations or "small talk" concerning location and property styles, or responses to general factual questions from a potential buyer or tenant concerning facts and features of properties which have been advertised for sale or lease.

“*Status*” means the condition of a real estate license. A license may be active, inactive, expired, suspended, revoked or canceled. “Inactive license” is defined in Iowa Code section 543B.5(12).

“*Subagent*” means a broker and a broker’s affiliated licensees, engaged by another broker to act as an agent for a client. The subagent has the same obligations and responsibilities to the client as the primary broker representing the client.

“*Third party*” means a person or entity that is not a client, is not a party to the transaction, and has no agency relationship to a real estate brokerage.

“*Timely*” means done or occurring at a reasonable time under the circumstances.

“*Timely received*” means postmarked, not metered, not later than midnight on the last date of the deadline specified by the Iowa Code or commission rules.

“*Transaction*” means the sale, exchange, purchase, or rental of, or the granting or acceptance of, an option to sell, exchange, purchase, or rent an interest in real estate, but excluding the subleasing of an interest in a residential cooperative housing corporation, when the leases are for one year or less.

“*Type*” means the category to which a broker license or firm license is issued. A broker license may be issued as a sole-proprietor broker, broker officer, broker partner, or broker associate. A firm license may be issued as a corporation, partnership or association.

“*Undisclosed dual agent*” means a licensee representing two or more clients in the same transaction whose interests are adverse without the knowledge and informed consent of the clients.

This rule is intended to implement Iowa Code chapters 17A, 272C and 543B.

[ARC 7764C, IAB 4/17/24, effective 5/22/24]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 2/26/08, Notice 12/19/07—published 3/26/08, effective 4/30/08]

[Filed ARC 7736B (Notice ARC 7508B, IAB 1/14/09), IAB 5/6/09, effective 6/10/09]

[Filed ARC 7764C (Notice ARC 7443C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 3
BROKER LICENSE

[Prior to 6/15/88, see Real Estate Commission[700] Ch 3]

[Prior to 9/4/02, see 193E—2.10(543B) to 193E—2.12(543B) and 193E—3.3(543B)]

193E—3.1(543B) Broker licensure. An applicant is only eligible for a broker license by satisfying Iowa Code section 543B.15.

3.1(1) An applicant for a real estate broker's license who has been convicted of a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C).

3.1(2) An applicant for a broker license may use active experience as a former Iowa salesperson or active salesperson experience in another state or jurisdiction, or a combination of both, to satisfy the experience requirement for a broker license under Iowa Code section 543B.15(7) only if the former Iowa salesperson or applicant from another state or jurisdiction was actively licensed for not less than 24 months and if the license on which the experience is based has not been expired for more than three years prior to the date the completed broker application with fee is filed with the commission.

[ARC 7765C, IAB 4/17/24, effective 5/22/24]

193E—3.2(543B) License examination. Examinations for licensure as a real estate broker are conducted by the commission's authorized representative.

3.2(1) Testing service. The commission will negotiate an agreement with a testing service relating to examination development, test scheduling, examination sites, grade reporting and analysis. The commission approves the form, contract, and method of administration. The examination is conducted in accordance with approved procedures formulated by the testing agency. Applicants register and pay examination fees directly to the testing service.

3.2(2) Requests for waiver. The commission will consider each request for a waiver of commission rules or of the qualifications for licensure on an individual basis. The commission may require additional supporting information. If the applicant's experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

3.2(3) Eligibility to sit for examination. An individual may only sit for the examination after meeting the qualifications set out in Iowa Code section 543B.15. An examinee is obligated to show one of the following at the examination site:

- a. Evidence that prelicense education has been completed within the last two years.
- b. The letter from the commission granting a waiver of prelicense education.
- c. A written authorization from the commission for individuals planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B).
- d. A written authorization from the commission for individuals planning to seek reinstatement of an expired license.

3.2(4) Failure to pass examination. An examinee who takes an examination and fails is eligible to apply to retake the examination at any time the examination is offered by filing a new registration form and paying the examination fee, unless the qualifying time period for the prelicense education or granted waiver has expired.

[ARC 7765C, IAB 4/17/24, effective 5/22/24]

193E—3.3(543B) Application for broker license. An applicant who applies for a broker's license will submit to the commission a completed application, license fee, proof of required education, and test score reports not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

3.3(1) Application contents. The applicant for licensure attests to the accuracy of the detailed personal, financial, and business information concerning the applicant included on the application.

3.3(2) License terms. Real estate broker, salesperson, trade name, branch office, and firm licenses are issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term. Branch office licenses and trade name licenses are issued for the remaining portion of the license term of the license to which each is assigned.

3.3(3) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure. [ARC 7765C, IAB 4/17/24, effective 5/22/24]

193E—3.4(543B) Broker continuing education.

3.4(1) To renew a license in active status, each broker or broker associate completes a minimum of 36 hours of approved programs, courses or activities. The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license term.

3.4(2) Brokers and broker associates complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.

Law Update	8 hours
Ethics	4 hours
Electives	24 hours

3.4(3) A license may be renewed in inactive status without the completion of continuing education. Prior to reactivating a license which has been issued inactive due to the licensee's failure to submit evidence of continuing education, the licensee submits an application to reactivate to active status with evidence that all deficient continuing education hours have been completed. The maximum continuing education hours will not exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license. [ARC 7765C, IAB 4/17/24, effective 5/22/24]

193E—3.5(17A,272C,543B) Renewing a broker license. To remain authorized to act as a real estate broker, a broker renews a real estate license before the expiration date of the license. Brokers who fail to renew a real estate license before expiration are not authorized to practice as real estate brokers in Iowa. Termination of a broker's authority to practice real estate in Iowa automatically terminates the authority of all salespersons employed by or assigned to the broker.

3.5(1) Application forms. Applications for renewal of a broker's license may be found on the commission's website. Brokers renew electronically. While the commission generally mails reminders to brokers in the November preceding license expiration, the failure of the commission to mail a reminder does not excuse the broker from the requirement to renew prior to the expiration of the license.

3.5(2) Qualifications for renewal. The commission grants an application to renew a broker's license if:

- a. The application is timely received by the commission by December 31, or within the 30-day grace period after expiration as provided by Iowa Code section 543B.28.
- b. The application is accompanied by the regular renewal fee and, if received by the commission after midnight December 31 but prior to midnight January 30, is accompanied by a penalty of \$25.
- c. The application is fully completed with all necessary information, including proper disclosure of completed continuing education and errors and omissions insurance.
- d. The application does not include grounds to deny a license, such as the revocation of a license in another jurisdiction or a criminal conviction.

3.5(3) Incomplete or untimely applications to renew. Renewal applications received by the commission after midnight January 30 will be treated as applications to reinstate an expired license under rule 193E—3.6(272C,543B).

a. Applications to renew or reinstate a broker's license which are incomplete or which are not accompanied by the proper fee may be returned to the broker for additional information or fee.

b. Alternatively, the commission may retain the application, and notify the applicant that the application cannot be granted without further information or fee.

3.5(4) *Insufficient continuing education.* Renewal applications which do not report completion of required continuing education, but which are otherwise timely and sufficient and accompanied with the proper fee, are renewed in inactive status. In the event of a factual dispute regarding the broker's intent to renew in inactive status or a broker's completion of continuing education, the commission may deny the application and provide the applicant with an opportunity for hearing according to the procedures set forth in rule 193—7.39(546,272C).

3.5(5) *Denial of application to renew.* An application to renew may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application to renew does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

3.5(6) *Renewal of inactive or suspended license.* An inactive or suspended license expires if not timely renewed. The status of a license does not affect the requirement to renew.

[ARC 7765C, IAB 4/17/24, effective 5/22/24]

193E—3.6(272C,543B) Reinstatement of an expired broker license. A real estate broker who fails to renew or file a completed renewal application by midnight January 30 of the first year following expiration may reinstate the license within three years of expiration by submitting a complete and sufficient application accompanied by the regular renewal fee and an additional reinstatement fee of \$25 for each partial or full month following expiration. From the date of expiration to the date of reinstatement, the broker is not authorized to practice as a real estate broker in Iowa.

3.6(1) *Continuing education.* A broker either fully satisfied all continuing education or has retaken and passed the broker examination to reinstate an expired broker license.

3.6(2) *Starting over.* A broker who fails to reinstate an expired license by December 31 of the third year following expiration is treated as if the former broker had never been licensed in Iowa. Such a former broker starts over in the licensing process and must first qualify and apply for a salesperson license.

3.6(3) *Denial of application.* An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

[ARC 7765C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 5/7/04, Notice 2/18/04—published 5/26/04, effective 6/30/04]

[Filed 7/25/05, Notice 6/8/05—published 8/17/05, effective 9/21/05]

[Filed ARC 3242C (Notice ARC 3065C, IAB 5/24/17), IAB 8/2/17, effective 9/6/17]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

[Filed ARC 7765C (Notice ARC 7444C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 4
SALESPERSON LICENSE

[Prior to 9/4/02, see 193E—2.10(543B), 193E—2.11(543B), 193E—3.2(543B), and 193E—3.3(543B)]

193E—4.1(543B) General criteria for salesperson license. A person who is licensed under and employed by or otherwise associated with a real estate broker or firm is a “salesperson” as defined in Iowa Code section 543B.5(20) and rule 193E—2.1(543B).

4.1(1) An original application for a salesperson license cannot be issued to inactive status.

4.1(2) If the license is transferred, as provided in rule 193E—6.2(543B), the salesperson may work immediately for the new broker.

4.1(3) A salesperson is assigned to a licensed broker or firm and cannot conduct business independently.

4.1(4) Except as provided in Iowa Code section 543B.21, an applicant for a salesperson license must meet all qualifications under Iowa Code section 543B.15.

4.1(5) An applicant for a real estate salesperson license who has been convicted of a disqualifying criminal offense in a court of competent jurisdiction in this state or in any other state, jurisdiction, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction as provided by Iowa Code section 272C.15 and rule 193—15.2(272C).

4.1(6) An applicant for a real estate salesperson license who has had a professional license of any kind revoked in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation.

4.1(7) Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination consists of 60 live instruction or online learning hours of real estate principles and practices. To be eligible to take the examination, the 60 live education or online learning hours of real estate principles and practices are completed during the 12 months prior to taking the examination. The applicant will also provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The prelicense education will expire after 12 months.

[ARC 7766C, IAB 4/17/24, effective 5/22/24]

193E—4.2(543B) License examination. Examinations for licensure as a real estate salesperson are conducted by the commission or its authorized representative.

4.2(1) Testing service. The commission will negotiate an agreement with a testing service relating to examination development, test scheduling, examination sites, grade reporting and analysis. The commission will approve the form, contract, and method of administration. The examination is conducted in accordance with approved procedures formulated by the testing service. Applicants register and pay examination fees directly to the testing service.

4.2(2) Requests for waiver. The commission will consider each request for a waiver of commission rules or of the qualifications for licensure on an individual basis. The commission may require additional supporting information. If the applicant’s prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

4.2(3) Eligibility to sit for examination. An individual may only sit for the examination after meeting the qualifications set out in Iowa Code section 543B.15. An examinee is obligated to show one of the following at the examination site:

a. Evidence that 60 live education or online learning hours of real estate principles and practices have been completed.

b. A letter from the commission granting a waiver of prelicense education.

c. A written authorization from the commission for individuals planning to qualify under rule 193E—5.3(543B) or 193E—5.12(543B).

4.2(4) Failure to pass examination. An examinee who takes an examination and fails is eligible to apply to retake the examination at any time the examination is offered by filing a new registration form and paying the examination fee, unless the qualifying time period for the prelicense education or waiver granted has expired.

[ARC 7766C, IAB 4/17/24, effective 5/22/24]

193E—4.3(543B) Application for salesperson license. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application with license fee, proof of required education, and test score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

4.3(1) Application contents. The application includes detailed personal, financial, and business information concerning the applicant, and the applicant for licensure attests to its accuracy.

4.3(2) License terms. A salesperson license is issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term.

4.3(3) Denial of application. An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application does not prevent the later initiation of a contested case to challenge a licensee’s qualifications for licensure.

[ARC 7766C, IAB 4/17/24, effective 5/22/24]

193E—4.4(543B) Salesperson continuing education requirements.

4.4(1) As a requirement of license renewal in active status, each salesperson completes a minimum of 36 hours of approved programs, courses or activities during the three calendar years of the license term, and continuing education hours cannot be carried over to another license term.

4.4(2) Salespersons renewing licenses shall complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.

Law Update	8 hours
Ethics	4 hours
Electives	24 hours

4.4(3) A salesperson license may be renewed to inactive status without completion of continuing education. Prior to reactivating a license which has been issued inactive due to failure to submit evidence of continuing education, the licensee must submit evidence that all deficient continuing education hours have been completed. The maximum continuing education hours shall not exceed the prescribed number of hours of one license renewal period and must be completed during the three calendar years preceding activation of the license.

[ARC 7766C, IAB 4/17/24, effective 5/22/24]

193E—4.5(543B) Renewing a license. To remain authorized to act as a real estate salesperson, a salesperson must renew a real estate license before the expiration date of the license. Salespersons who fail to renew a real estate license before expiration are not authorized to practice as real estate salespersons in Iowa.

4.5(1) Application forms. Applications for renewal of a salesperson license may be found on the commission’s website. Salespersons will renew electronically. While the commission generally mails reminders to salespersons in the November preceding license expiration, the failure of the commission to mail a reminder does not excuse the salesperson from the requirement to timely renew.

4.5(2) Qualifications for renewal. The commission shall grant an application to renew a salesperson license if:

a. The application is timely received by the commission by December 31, or within the 30-day grace period after expiration as provided by Iowa Code section 543B.28.

b. The application is accompanied by the regular renewal fee and, if received by the commission after midnight December 31, but prior to midnight January 30, is accompanied by a penalty of \$25.

c. The application is fully completed with all necessary information, including proper disclosure of required continuing education and errors and omissions insurance.

d. The application fails to reveal grounds to deny a license, such as a criminal conviction or the revocation of a license in another jurisdiction.

4.5(3) *Incomplete or untimely applications to renew.* Renewal applications received by the commission, or postmarked, after midnight January 30 shall be treated as applications to reinstate an expired license under rule 193E—4.6(272C,543B).

a. Applications to renew or reinstate a salesperson license which are incomplete or which are not accompanied by the proper fee may be returned to the salesperson for additional information or fee.

b. Alternatively, the commission may retain the application and notify the applicant that the application cannot be granted without further information or fee.

4.5(4) *Insufficient continuing education.* Renewal applications which do not report completion of required continuing education, but which are otherwise timely and sufficient and accompanied with proper fee, shall be renewed in inactive status. In the event of a factual dispute regarding the salesperson's intent to renew in inactive status or a salesperson's compliance with continuing education requirements, the commission may deny the application and provide the applicant with an opportunity for hearing according to the procedures set forth in rules 193—7.39(546,272C) and 193E—18.13(543B).

4.5(5) *Denial of application to renew.* An application to renew may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application to renew shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

4.5(6) *Renewal of inactive or suspended license.* An inactive or suspended license must be timely renewed or it shall expire. The status of a license does not affect the requirement to renew.

[ARC 7766C, IAB 4/17/24, effective 5/22/24]

193E—4.6(272C,543B) Reinstatement of an expired salesperson license. A real estate salesperson who fails to renew or fails to file a complete renewal application form by midnight January 30 of the first year following expiration may reinstate the license within three years of expiration by submitting a complete and sufficient application accompanied by the regular renewal fee and an additional reinstatement fee of \$25 for each partial or full month following expiration. From the date of expiration to the date of reinstatement, the salesperson is not authorized to practice as a real estate salesperson in Iowa.

4.6(1) *Continuing education.* An application to reinstate an expired salesperson license must report that the salesperson either fully satisfied all required continuing education or has retaken and passed the salesperson examination. A salesperson holding an expired license who wishes to retake the salesperson examination must obtain written authorization from the commission to show at the examination site.

4.6(2) *Deposit of reinstatement fees.* Reinstatement fees collected under this rule shall be transmitted to the treasurer's office and credited to the education fund established in Iowa Code section 543B.54.

4.6(3) *Starting over.* A salesperson who fails to reinstate an expired license by December 31 of the third year following expiration shall be treated as if the former salesperson had never been licensed in Iowa. Such a former salesperson must start over in the licensing process and qualify and apply for a salesperson license.

4.6(4) *Denial of application.* An application may be denied on the grounds provided in Iowa Code chapter 543B and in rule 193—7.39(546,272C). The administrative processing of an application shall not prevent the later initiation of a contested case to challenge a licensee's qualifications for licensure.

[ARC 7766C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 7/25/05, Notice 6/8/05—published 8/17/05, effective 9/21/05]

[Filed 5/30/07, Notice 4/25/07—published 6/20/07, effective 7/25/07]

[Filed 10/14/08, Notice 7/30/08—published 11/5/08, effective 12/10/08]

[Filed ARC 3242C (Notice ARC 3065C, IAB 5/24/17), IAB 8/2/17, effective 9/6/17]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]
[Filed ARC 7766C (Notice ARC 7445C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 5
LICENSEES OF OTHER JURISDICTIONS AND RECIPROCITY
[Prior to 9/4/02, see 193E—2.3(543B)]

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) or 193E—5.12(543B) may qualify for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) or 193E—5.12(543B) may qualify for the same type of broker or broker associate license in Iowa. The person meets all criteria for an Iowa broker license as provided in rule 193E—3.1(543B). If the person does not meet the criteria, the person may qualify for a salesperson license if the person meets, at a minimum, the criteria for an Iowa salesperson license as provided in 193E—Chapter 4.

5.1(3) A person may only perform activities in Iowa as provided by Iowa Code chapter 543B after qualifying for and being issued a real estate license.
[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.2(543B) Nonresident application. Each applicant under rule 193E—5.3(543B) or under a reciprocal licensing agreement or memorandum applies on forms provided by the commission under Iowa Code section 543B.16. The application includes but is not limited to a certification of license from the state of original licensure containing all information required by Iowa Code section 543B.21 and an affidavit certifying that the applicant has reviewed and is familiar with and will be bound by the Iowa real estate license law and the rules of the commission.
[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.3(543B) License by examination. A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the real estate examination under the following circumstances:

5.3(1) Broker. The person has been actively licensed as a broker or broker associate, the person meets all criteria for an Iowa broker's license as provided in rule 193E—3.1(543B), and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the national portion and Iowa portion of the broker real estate examination.

5.3(2) Salesperson. The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the Iowa portion of the salesperson real estate examination.

5.3(3) The applicant submits a written request for authorization to sit for the appropriate examination.

5.3(4) The applicant submits certification of the applicant's current qualifying license from the licensing authority that issued the license.
[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.4(543B) Licensure by reciprocity. The commission may, as provided in Iowa Code section 543B.21, enter into specific written reciprocal licensing agreements or memorandums with other individual states or jurisdictions having similar licensing criteria and grant an Iowa license to licensees from those states or jurisdictions on the same basis as Iowa licensees are granted licenses by those states or jurisdictions.

5.4(1) The applicant is not a resident of Iowa.

5.4(2) A license issued pursuant to this rule is based upon a nonresident salesperson or broker license issued by examination.

5.4(3) A license issued pursuant to this rule is assigned to the same broker or firm as the nonresident license upon which it is based.

5.4(4) If an applicant establishes residency in Iowa, that person does not qualify for licensure by reciprocal licensing agreement or memorandum.

5.4(5) An Iowa license issued by reciprocity is based upon the nonresident license issued by examination in that other state or jurisdiction and is issued to the same broker and location as the nonresident license. The nonresident broker and firm, if applicable, must also be licensed in Iowa.

5.4(6) A reciprocity agreement or memorandum of understanding is only a method to apply for licensure and does not grant any exception to mandatory license laws of Iowa or the other state or jurisdiction.

5.4(7) An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state's or jurisdiction's licensing board for information and applications.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.5(543B) Renewal of a license issued by reciprocity. All renewal criteria for a real estate broker or salesperson license issued by examination apply to a license issued by reciprocity.

Continuing education reciprocity is specifically provided for in the reciprocal license agreement or memorandum, or in a separate reciprocal continuing education agreement or memorandum.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.6(543B) Reinstatement of a license issued by reciprocity. All reinstatement criteria for a real estate broker license or salesperson license issued by examination apply to a license issued by reciprocity.

5.6(1) Starting over. A broker or salesperson who fails to file a complete application to reinstate an expired license by midnight December 31 of the third year following expiration is treated as if the former broker or salesperson had never been licensed in Iowa.

5.6(2) A broker or salesperson must qualify for reciprocity in order to reinstate an expired reciprocal broker or salesperson license.

5.6(3) If the broker or salesperson has moved into Iowa and no longer qualifies for reciprocity, the expired license is reinstated in the same manner as a license issued by examination as provided in rule 193E—3.6(272C,543B) for brokers and rule 193E—4.6(272C,543B) for salespersons.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.7(543B) Nonresident real estate offices and licenses required. All nonresident applicants for licensure in Iowa shall qualify for and obtain a license pursuant to Iowa Code section 543B.2(2) and rule 193E—7.1(543B).

5.7(1) If the applicant is a broker associate or salesperson of a nonresident broker, the nonresident employing broker must have an Iowa broker license.

5.7(2) If the applicant is employed by or otherwise associated with a nonresident real estate firm as defined in rule 193E—2.1(543B), that firm must apply and qualify for an Iowa license.

a. No firm as defined in rule 193E—2.1(543B) may be granted an Iowa license unless at least one member or officer of the firm applies for and is granted an Iowa broker license.

b. Every member or officer of the firm and every employee or associated real estate licensee who acts as a real estate broker, broker associate, or salesperson in Iowa must apply for and be granted an Iowa license.

5.7(3) As provided by Iowa Code section 543B.22, a nonresident broker or firm is not obligated to maintain a definite place of business in Iowa if that broker or firm maintains an active place of business within the resident state or jurisdiction.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.8(543B) Actions against nonresidents. The application for a nonresident license is accompanied by an executed irrevocable written consent to suits and actions at law or in equity as provided in Iowa Code section 543B.23.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.9(543B) Nonresident continuing education. Nonresident licensees shall fully comply with all continuing education unless a separate education agreement is in place between Iowa and the nonresident state or jurisdiction.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.10(543B) License discipline reporting. If an Iowa licensee has a real estate license disciplined, suspended or revoked by any other state or jurisdiction, that disciplinary action will be considered prima facie evidence of violation of Iowa Code section 543B.29 or 543B.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the Iowa licensee. Failure to notify the commission within 15 days of an adverse action taken by another state or jurisdiction is cause for disciplinary action.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

193E—5.11(543B) Licensure by verification. A person licensed in another state or jurisdiction may qualify for an Iowa salesperson or broker license through verification by making application as provided in rule 193—14.4(272C). In addition to all requirements provided by rule 193—14.4(272C), an applicant for a license through verification shall also submit to the commission proof of passing the Iowa portion of the salesperson or broker real estate examination.

5.11(1) License terms. Once the applicant submits an approved application and appropriate licensing fees, a license will be issued for a three-year term, counting the remaining portion of the year issued as a full year. Licenses expire on December 31 of the third year of the license term.

5.11(2) Reserved.

[ARC 7767C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 9619B (Notice ARC 9486B, IAB 5/4/11), IAB 7/27/11, effective 8/31/11]

[Filed ARC 3242C (Notice ARC 3065C, IAB 5/24/17), IAB 8/2/17, effective 9/6/17]

[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]

[Filed ARC 7767C (Notice ARC 7446C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 6
TERMINATION AND TRANSFER

193E—6.1(543B) Terminating employment or association. When a licensee is discharged by the affiliated broker or the licensee terminates the employment or association with the affiliated broker, the licensee immediately ceases all activities that need an active real estate license until such time as a new affiliated broker makes written request for the license and the license is reassigned to the new affiliated broker.

6.1(1) When a broker discharges a salesperson or broker associate, the broker complies with all criteria of Iowa Code section 543B.33. The releasing broker makes a reasonable effort to ensure that an application to inactivate the licensee is submitted electronically to the commission within 72 hours of the discharge date.

6.1(2) The licensee may terminate the employment or association by providing written notice to the affiliated broker advising the effective date of the termination and requesting that the license be immediately returned to the commission. The affiliated broker cannot refuse to comply with the request. The releasing broker makes every reasonable effort to ensure that the commission receives the electronic application within 72 hours of the termination date.

[ARC 7768C, IAB 4/17/24, effective 5/22/24]

193E—6.2(543B) Transfer of license and necessary transfer application. All requests for transfer of license are made on the necessary electronic application for license transfer available from the commission. The license transfer application is only used for transferring the license from the affiliated broker to a new affiliated broker. This transfer application is only to be used if the transferring licensee has obtained the necessary information from the new affiliating broker. The license transfer application cannot be used for licensees who are terminated or who quit prior to obtaining a new affiliating broker. The transfer application cannot be backdated to a new affiliated broker.

6.2(1) The license transfer process involves three steps, and each step needs to be correctly completed to qualify as a valid transfer. The steps are as follows:

a. The transferring licensee submits the electronic transfer application available from the commission.

b. Both the new affiliating broker and releasing broker electronically approve the transfer request within 48 hours of receiving notification from the commission of the transfer request.

c. The electronic transfer application is approved and issued by the commission.

6.2(2) Transfer effective date. The effective date of the transfer is the date of approval and issuance from the commission.

[ARC 7768C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 8284B (Notice ARC 8058B, IAB 8/26/09), IAB 11/18/09, effective 12/23/09]

[Filed ARC 7768C (Notice ARC 7447C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 7
OFFICES AND MANAGEMENT

[Prior to 9/4/02, see 193E—Ch 1 and 193E—2.14(543B) to 193E—2.17(543B)]

193E—7.1(543B) Real estate offices and licenses needed.

7.1(1) Every Iowa resident real estate firm or self-employed broker maintains an office as provided in Iowa Code section 543B.31.

A nonresident Iowa real estate broker or firm is not obligated to maintain a definite place of business within Iowa as provided in Iowa Code section 543B.22.

7.1(2) Sharing office space. It is acceptable for more than one broker to operate in an office at the same address if each broker maintains all records and trust accounts separate from all the others. Each broker operates under a business name, which clearly identifies the broker as an individual within the group of brokers.

7.1(3) Branch office. A licensed Iowa real estate firm or sole-proprietor broker maintaining a branch office displays a commission-issued branch office license in that location. The branch office license is issued in the name of the firm or sole-proprietor broker and includes the license number and the physical address of the branch office. The branch office license is issued at a reduced fee and has the same expiration date of the primary license.

7.1(4) When a real estate brokerage firm closes, the principal broker or a designated representative follows procedures as provided in 193E—Chapter 8.

7.1(5) A licensed officer of a corporation or partnership may be licensed as an officer or partner of more than one corporation or partnership. The main or primary license for which the full license fee was paid is maintained in active status to keep any additional licenses that were issued at a reduced fee active and in effect. A broker officer licensed to more than one corporation or partnership may be the designated broker of more than one corporation or partnership.

Continuing education is needed only for renewal of the main or primary license.

7.1(6) When a branch office closes, notice in writing, electronically or otherwise, shall be given to the commission.

7.1(7) Each actively licensed broker associate and salesperson is licensed under a broker.

7.1(8) A broker associate or salesperson may not be licensed under more than one broker during the same period of time.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.2(543B) Notification needed.

7.2(1) Partnerships, associations, and corporations are obligated to obtain a license before acting as a real estate broker. Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days that the broker has formed a new partnership, association or corporation, or has changed the type of the business, is prima facie evidence of a violation of Iowa Code section 543B.1.

7.2(2) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change in type of license as sole-proprietor broker, partner, officer or broker associate is prima facie evidence of a violation of Iowa Code sections 543B.1 and 543B.29(1).

7.2(3) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 543B.32.

7.2(4) Failure of a broker to return a license electronically to the commission office to ensure that it is received within 72 hours after a salesperson or broker associate is discharged or terminates employment is prima facie evidence of a violation of Iowa Code section 543B.33.

7.2(5) Failure of a licensee to inform the commission in writing, electronic or otherwise, within five working days of a change of residence address or mailing address is prima facie evidence of a violation of Iowa Code sections 543B.16 and 543B.18.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.3(543B) Suspended and revoked licenses.

7.3(1) As of the effective date of a suspended or revoked license, the licensee cannot engage in any activity that needs a real estate license as defined in Iowa Code chapter 543B.

7.3(2) When a sole-proprietor broker, corporation or partnership license is suspended or revoked, all licensees associated with or assigned to that sole-proprietor broker, corporation or partnership are automatically placed on inactive status for the duration of the suspension or revocation, unless transferred to another sole-proprietor broker, corporation or partnership.

a. When a suspension or revocation is determined, the commission also determines whether the corporation or partnership license is automatically canceled.

b. If the broker whose license is suspended or revoked is the only licensed broker officer of a corporation, the corporation license will automatically be canceled.

7.3(3) A licensee whose license is suspended or revoked may receive compensation during the period of suspension or revocation only for those acts performed and for which compensation was earned when the person was actively licensed prior to the effective date of the suspension or revocation.

This rule does not determine if a licensee is entitled to compensation; such entitlement would depend upon the licensee's written employment or association agreement with the former affiliated broker and is a matter of contract law.

7.3(4) All listings and property management agreements are canceled by the broker whose license is suspended or revoked upon receipt of the order of revocation or suspension and prior to the effective date of the order.

a. The seller or landlord, or buyer or tenant, are advised that the seller or landlord, or buyer or tenant, may enter into a listing or brokerage agreement with another broker of choice.

b. A broker whose license is suspended or revoked cannot sell or assign listings or management agreements to another broker without the written consent of the owner of the property, and any sale or assignment of listings or management agreements are completed prior to the effective date of the order.

7.3(5) A broker whose license is suspended or revoked cannot finalize any pending closings. This responsibility is given to another broker, an attorney, a financial institution, or an escrow company.

a. Transfer of this responsibility is done with the written approval of all parties to the transaction.

b. All parties to the transaction are advised of the facts concerning the situation and are provided the name, address, and telephone number of the responsible entity where all trust and escrow moneys will be held, with the written approval of all parties.

7.3(6) A broker whose license is suspended or revoked is barred from advertising real estate in any manner as a broker. All advertising, including but not limited to signs, is removed or covered within ten calendar days after the effective date of the suspension or revocation.

The real estate brokerage telephone is not answered in any manner to indicate the broker is active in the real estate business.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.4(543B) Barred practices. For purposes of this rule, only the term “real estate licensee” means “real estate broker or real estate salesperson” as defined in Iowa Code chapter 543B. A licensee participating in any of the practices described in this rule is deemed to be engaging in unethical conduct and a practice harmful or detrimental to the public within the meaning of Iowa Code section 543B.29(1).

7.4(1) An arrangement in which a real estate licensee needs or conditions, in connection with the sale of a lot, that the real estate licensee receive from the homebuilder an exclusive right to sell or list the house to be constructed on the lot.

7.4(2) An arrangement in which a real estate licensee agrees to sell lots on behalf of a developer on the condition that the developer obligates each homebuilder purchasing such a lot to list the house to be constructed with the real estate licensee.

7.4(3) An arrangement in which a real estate licensee, in connection with the sale of a lot to a consumer or homebuilder, obligates the consumer or homebuilder to pay a commission on the value of the house to be constructed on the lot.

7.4(4) Any arrangement pursuant to which the sale of real estate to a prospective purchaser is conditioned upon the listing of real estate owned by the prospective purchaser with the real estate licensee.

7.4(5) An arrangement in which a real estate licensee, in connection with the sale of a lot to a consumer, obligates the consumer to use a specified homebuilder to build the house to be constructed on the lot.

7.4(6) Any arrangement in which a real estate licensee enters into an agreement with a mortgage broker, bank, savings and loan, or other financial institution pursuant to which the making of a loan is directly or indirectly conditioned upon payment of a real estate commission to the real estate licensee.

7.4(7) Any arrangement pursuant to which a real estate licensee who is affiliated with a mortgage broker, bank, savings and loan association or other financial institution benefits from the practice by the affiliated financial institution of granting mortgage loans or any other loan or financial services or the availability of other benefits directly or indirectly conditioned upon the use of the real estate services of the affiliated licensee.

7.4(8) Any arrangement barred by Iowa Code section 543B.60A.

This rule is intended only to regulate the licensing of real estate licensees in the state of Iowa. This rule is not intended nor should it be interpreted to supplant Iowa Code chapter 553 (Iowa Competition Law) or as authorizing or approving business practices which are not specifically barred in this rule. The commission, upon receipt of any formal written complaint filed against a licensee alleging a violation of this rule, in addition to evaluating such complaint for license revocation or suspension under Iowa Code chapter 543B, forwards a copy of such complaint to the attorney general of the state of Iowa and to the United States Attorney for investigation and appropriate action.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.5(543B) Loan finder fees. The acceptance of a fee or anything of value by a real estate licensee from a lender or financing company for the referral or steering of a client to the lender for a loan is considered not in the best interest of the public and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.6(543B) Lotteries barred. Licensees cannot engage in lotteries and schemes of sales involving selling of certificates, chances or other devices, whereby the purchaser is to receive property to be selected in an order to be determined by chance or by some means other than the order of prior sale, or whereby property more or less valuable will be secured according to chance or the amount of sales made, or whereby the price will depend upon chance or the amount of sales made, or whereby the buyer or tenant will not receive, rent, or lease any property. Such activities are declared to be methods by reason of which the public interests are endangered.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.7(543B) Broker needed to furnish progress report. After an offer to buy has been made by a buyer and accepted by a seller, either party may demand at reasonable intervals and the broker furnishes a detailed statement showing the current status of the transaction.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.8(543B) Disclosure of licensee interest, acting as a principal, and status as a licensee. A licensee cannot act in a transaction on the licensee's own behalf, on behalf of the licensee's immediate family, or on behalf of the brokerage, or on behalf of an organization or business entity in which the licensee has an interest, unless the licensee provides written disclosure of that interest to all parties to the transaction in accordance with Iowa Code section 543B.56(3) "b." Disclosure obligated under this rule is made at the time of or prior to the licensee's providing specific assistance to the party or parties to the transaction. Copies of the disclosure may be provided in person, electronically or by mail, as soon as reasonably practical. If no specific assistance is provided, disclosure is provided prior to the parties'

forming a legally binding contract, either prior to an offer made by the buyer or tenant or prior to an acceptance by the seller or landlord, whichever comes first.

7.8(1) *Licensee acting as a principal.* A licensee cannot acquire any interest in any property, directly or indirectly, nor can the licensee sell any interest in which the licensee, directly or indirectly, has an interest without first making written disclosure of the licensee's true position clear to the other party. Satisfactory proof of this disclosure is produced by the licensee upon request of the commission. Whenever a licensee is in doubt as to whether an interest, relationship, association, or affiliation obligates disclosure under this rule, the safest course of action is to make the written disclosure.

7.8(2) *Status as a licensee.* Before buying, selling, or leasing real estate as described above, the licensee discloses in writing any ownership, or other interest, which the licensee has or will have and the licensee's status to all parties to the transaction. An inactive status license does not exempt a licensee from providing the obligated disclosure.

7.8(3) *Dual capacity.* The licensee does not act in a dual capacity of agent and undisclosed principal in any transaction.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.9(543B) Financial interest disclosure needed. A licensee who has any affiliated business arrangement or relationship with any provider of settlement services, as defined below, and directly or indirectly refers business to that provider or affirmatively influences the selection of that provider discloses the arrangement and any financial interest to the person whose business is being referred or influenced. The obligated disclosure is acknowledged by the separate signatures of the person or persons whose business is being referred or influenced. The disclosure is given and signed before or at substantially the same time that the business is referred or the provider is selected. If the disclosure is made on a separate form, the licensee retains a copy of the signed disclosure in the transaction file for a period of five years after the execution.

7.9(1) An affiliated business arrangement means an arrangement in which a real estate licensee, or an associate of a real estate licensee, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in the business entity providing the service or product.

a. An associate means one who has one or more of the following relationships with a real estate licensee:

- (1) A spouse, parent, or child of a real estate licensee;
- (2) A corporation or business entity that controls, is controlled by, or is under common control with a real estate licensee;
- (3) An employee, officer, director, partner, franchiser or franchisee of a real estate licensee; or
- (4) Anyone who has an agreement, arrangement or understanding with a real estate licensee or brokerage, the purpose or substantial effect of which is to enable the real estate licensee to refer for any service, settlement service, or business or product related to the transaction and to benefit financially from the referral of that business.

b. Settlement services include services in connection with a real estate transaction including, but not limited to, the following: mortgage or other financing; title searches; title examinations; the provisions of title certificates, title insurance, hazard insurance; services rendered by an attorney; the preparation of documents; property surveys; the rendering of credit reports or appraisals; pest, fungus, mechanical or other inspections; services rendered by a real estate agent or broker; and the handling of the processing and closing of settlement.

c. An affiliated business arrangement does not include an arrangement in which a real estate licensee, or an associate of a real estate licensee, gives or pays an undisclosed commission in a transaction to any other licensee for a referral to provide real estate brokerage services, including franchise affiliates, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service. Referral fees or commissions paid by a licensee to another licensee under these conditions are exempted from the disclosure criteria.

7.9(2) No particular language is needed for the disclosure. To assist real estate licensees and the public, the commission recommends the following sample language:

DISCLOSURE OF REFERRAL OF BUSINESS	
<p>I understand that _____ (name of real estate licensee) _____ has an affiliate relationship with or owns an interest in _____ (name of company to which business is being referred) _____ and is also recommending that I employ this company for _____ (type of service) _____.</p>	
<p>I understand that _____ (name of real estate licensee) _____ may earn financial benefits from my use of this company. I understand that I am not obligated to use this company, and may select a different company if I wish to do so. This form has been fully explained to me and I have received a copy.</p>	
<p>_____</p> <p>(Date)</p>	<p>_____</p> <p>(Signature of person whose business is being referred)</p>

7.9(3) The term “franchise” has the same meaning as set forth in 24 CFR Chapter XX, Section 3500.15(c) as of April 1995.

7.9(4) The term “affiliate relationship” means the relationship among business entities where one entity has effective control over the other by virtue of a partnership or other agreement or is under common control with the other by a third entity or where an entity is a corporation related to another corporation as parent to subsidiary by an identity of stock ownership.

7.9(5) The term “beneficial ownership” means the effective ownership of an interest in a provider of settlement services or the right to use and control the ownership interest involved even though legal ownership or title may be held in another person’s name.

7.9(6) The term “direct ownership” means the holding of legal title to an interest in a provider of settlement services except where title is being held for the beneficial owner.

7.9(7) The term “control” as used in the definition of “affiliate relationship” means that a person:

- a. Is a general partner, officer, director, or employer of another person;
- b. Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing more than 20 percent of the voting interests of another person;
- c. Affirmatively influences in any manner the election of a majority of the directors of another person; or
- d. Has contributed more than 20 percent of the capital of the other person.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.10(543B) Agency-designated broker responsibilities. The following conditions and circumstances, together with the education and experience of licensed and unlicensed employees and independent contractors, is considered when determining whether or not the designated broker has met the supervisory responsibilities as set forth by Iowa Code section 543B.62(3) “b.”

7.10(1) When making a determination, the commission may consider, but is not limited to consideration of, the following:

- a. Availability of the designated broker/designee to assist and advise regarding brokerage-related activities;
- b. General knowledge of brokerage-related staff activities;
- c. Availability of quality training programs and materials to licensed and unlicensed employees and independent contractors;
- d. Supervisory policies and practices in the review of competitive market analysis, listing contracts, sales contracts and other contracts or information prepared for clients and customers;
- e. Frequency and content of staff meetings;
- f. Written company policy manuals for licensed and unlicensed employees and independent contractors;
- g. Ratio of supervisors to licensed employees and independent contractors; and

h. Assignment of an experienced licensee to work with new licensees.

7.10(2) The designated broker disseminates, in a timely manner, to licensed employees and independent contractors all regulatory information received by the brokerage pertaining to the practice of real estate brokerage.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.11(543B) Supervision needed. An employing or affiliated broker is responsible for providing supervision of any salesperson or broker associate employed by or otherwise associated with the broker as a representative of the broker. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and the salesperson or broker associate does not relieve either the broker or the salesperson or broker associate of duties, obligations or responsibilities obligated by law.

7.11(1) Each salesperson and broker associate keeps the broker fully informed of all activities being conducted on behalf of the broker in accordance with Iowa Code section 543B.62(3) “*b.*”

7.11(2) The activities of a salesperson or broker associate acting as a principal in the sale, lease, rental, or exchange of property owned by the licensee could impact the salesperson’s or broker associate’s license and the license of the employing or affiliated broker.

a. When a licensee is acting as a principal, the licensee keeps the employing or affiliated broker fully informed of all activities.

b. While this rule does not obligate that a licensee list property owned by the licensee with the employing or affiliated broker, the broker may obligate as a condition of employment or affiliation that the licensee list the property with the employing or affiliated broker or pay a commission.

7.11(3) A broker associate means the same as defined in Iowa Code section 543B.5(5) and rule 193E—2.1(543B). A broker associate is subject to the provisions of Iowa Code sections 543B.24 and 543B.33 and commission rules pertaining to salespersons during the time the broker remains a broker associate.

7.11(4) A broker who sponsors a salesperson during the salesperson’s first year of licensure must be able to demonstrate that the broker has the time available and experience necessary to adequately supervise an inexperienced salesperson.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.12(543B) Commission controversies. The commission will not and is not authorized by law to consider or conduct hearings involving disputes over fees or commissions between cooperating brokers, salespersons, and other brokers.

7.12(1) A former employing or affiliated broker may pay a commission directly to a broker associate or salesperson who is presently assigned to another broker or firm, or whose license is inactive, expired, suspended or revoked, only if the commission was earned while the broker associate or salesperson was actively licensed and assigned to the former broker. Whether or not a commission was earned while the broker associate or salesperson was licensed with the former broker depends upon the licensee’s written agreement with the former broker. The commission will not determine whether a commission is earned or whether a commission is to be paid.

7.12(2) If the licensee is presently assigned to another broker or firm, the former broker does not pay the commission to the new employing or affiliated broker or firm.

7.12(3) An Iowa real estate broker may pay a commission or fee to or receive a commission or fee from a nonresident broker who is actively licensed in the broker’s resident state but not licensed in Iowa. The nonresident broker takes no part in the listing, showing, negotiating offers or any other functions of a broker in Iowa unless actively licensed in Iowa.

7.12(4) Upon the termination of association or employment with the affiliated broker or firm, the broker associate or salesperson cannot take or use any written listing or brokerage agreements secured during the association or employment. Said listings and brokerage agreements remain the property of the broker or firm and may be canceled only by the broker and the seller, unless the terms of the listing or brokerage agreement state otherwise.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.13(543B) Support personnel for licensees; permitted and barred activities. Whenever a licensee affiliated with a broker engages support personnel to assist the affiliated licensee in the activities of the real estate brokerage business, both the firm or sponsoring broker and the affiliated licensee are responsible for supervising the acts or activities of the support personnel; however, the affiliated licensee has the primary responsibility for supervision. Unless the support person holds a real estate license, the support person cannot perform any activities, duties, or tasks of a real estate licensee as identified in Iowa Code sections 543B.3 and 543B.6 and may perform only ministerial duties that do not need discretion or the exercise of the licensee's own judgment. Personal assistants are considered support personnel.

7.13(1) Individuals actively licensed with one firm or broker cannot work as support personnel for a licensee affiliated with another firm or broker. Individuals with an inactive status license may work as support personnel for a licensee but cannot participate in any activity that needs a real estate license.

7.13(2) Any real estate brokerage firm or broker that allows an affiliated licensee to employ, or engage under an independent contractor agreement, support personnel to assist the affiliated licensee in carrying out brokerage activities complies with the following:

- a. Implement a written company policy authorizing the use of support personnel by licensees;
- b. Specify in the written company policy, which may incorporate the duties listed in subrule 7.13(4), any duties that the support personnel may perform on behalf of the affiliated licensee;
- c. Ensure that the affiliated licensee and the support personnel receive copies of the duties that support personnel may perform.

7.13(3) Broker supervision and improper use of license and office. While individual and designated brokers are responsible for supervising the real estate-related activities of all support personnel, an affiliated licensee employing a personal assistant has the primary responsibility for supervision of that personal assistant. A broker is not held responsible for inadequate supervision if:

- a. The unlicensed person violated a provision of Iowa Code chapter 543B or of commission rules that is in conflict with the supervising broker's specific written policies or instructions;
- b. Reasonable procedures have been established to verify that adequate supervision was being provided;
- c. The broker, upon hearing of the violation, attempted to prevent or mitigate the damage;
- d. The broker did not participate in the violation; and
- e. The broker did not attempt to avoid learning of the violation.

7.13(4) In order to provide reasonable assistance to licensees and their support personnel, but without defining every permitted activity, the commission has identified certain tasks that unlicensed support personnel under the direct supervision of a licensee affiliated with a firm or broker may not perform.

- a. Permitted activities include, but are not limited to, the following:

(1)	Answer the telephone, provide information about a listing to licensees, and forward calls from the public to a licensee;
(2)	Submit data on listings to a multiple listing service;
(3)	Check on the status of loan commitments after a contract has been negotiated;
(4)	Assemble documents for closings;
(5)	Secure documents that are public information from the courthouse and other sources available to the public;
(6)	Have keys made for company listings;
(7)	Write advertisements and promotional materials for the approval of the licensee and supervising broker;
(8)	Place advertisements in magazines, newspapers, websites, social media, and other media as directed by the supervising broker;
(9)	Record and deposit earnest money, security deposits, and advance rents, and perform other bookkeeping duties;
(10)	Type contract forms as directed by the licensee or the supervising broker;
(11)	Monitor personnel files;

(12)	Compute commission checks;
(13)	Place signs on property;
(14)	Order items of routine repair as directed by a licensee;
(15)	Act as courier for such purposes as delivering documents or picking up keys. The licensee remains responsible for ensuring delivery of all executed documents obligated by Iowa law and commission rules;
(16)	Schedule appointments with the seller or the seller's agent in order for a licensee to show a listed property;
(17)	Arrange dates and times for inspections;
(18)	Arrange dates and times for the mortgage application, the preclosing walk-through, and the closing;
(19)	Schedule an open house;
(20)	Perform physical maintenance on a property; or
(21)	Accompany a licensee to an open house or a showing and perform the following functions as a host or hostess: <ol style="list-style-type: none"> 1. Open the door and greet prospects as they arrive; 2. Hand out or distribute prepared printed material; 3. Have prospects sign a register or guest book to record names, addresses and telephone numbers; 4. Accompany prospects through the home for security purposes and not answer any questions pertaining to the material aspects of the house or its price and terms.
(22)	Independently host open houses for tours attended by licensed brokers and salespersons only.

b. Barred activities include, but are not limited to, the following:

(1)	Making cold calls by telephone or in person or otherwise contacting the public for the purpose of securing prospects for listings, leasing, sale, exchanges, or property management;
(2)	Independently hosting open houses, kiosks, home show booths, or fairs attended by the public;
(3)	Preparing promotion materials or advertisements without the review and approval of licensee and supervising broker;
(4)	Showing property independently;
(5)	Answering any questions on title, financing, or closings (other than time and place);
(6)	Answering any questions regarding a listing except for information on price and amenities expressly provided in writing by the licensee;
(7)	Discussing or explaining a contract, listing, lease, agreement, or other real estate document with anyone outside the firm;
(8)	Negotiating or agreeing to any commission, commission split, management fee, or referral fee on behalf of a licensee;
(9)	Discussing with the owner of real property the terms and conditions of the real property offered for sale or lease;
(10)	Collecting or holding deposit moneys, rent, other moneys or anything of value received from the owner of real property or from a prospective buyer or tenant;
(11)	Providing owners of real property or prospective buyers or tenants with any advice, recommendations or suggestions as to the sale, purchase, exchange, rental, or leasing of real property that is listed, to be listed, or currently available for sale or lease; or
(12)	Holding one's self out in any manner, orally or in writing, as being licensed or affiliated with a particular firm or real estate broker as a licensee.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.14(543B) Information provided by nonlicensed support personnel limited. Nonlicensed support personnel may, on behalf of the employer licensee, provide information concerning the sale,

exchange, purchase, rental, lease, or advertising of real estate only to another licensee. Support personnel provides information only to another licensee that has been provided to the personnel by the employer licensee either verbally or in writing.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

193E—7.15(543B) Presenting purchase agreements. All written offers to purchase received by a listing broker or listing agent are promptly presented to the seller for formal acceptance or rejection. The formal acceptance or rejection of the offer is promptly communicated to the prospective buyers. Unless there is written agreement between the seller and the listing broker directing otherwise, the listing broker is obligated to present back-up offers until the transaction has closed.

7.15(1) A customer's agent seeking compensation from the listing broker cannot prepare an offer to purchase on the property without first obtaining authorization and agreement from the listing broker.

7.15(2) A real estate licensee cannot induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

7.15(3) Immediately upon receiving an offer to purchase signed and dated by the buyer with consideration, if any, the listing agent provides a copy of the offer to purchase to the buyer as a receipt.

7.15(4) A customer's agent or representative cannot negotiate directly or indirectly with a seller or buyer, or landlord or tenant, if the agent knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has a written unexpired listing or brokerage agreement for services on an exclusive basis.

7.15(5) A listing agent cannot refuse to permit a customer's agent or representative to be present at any step in a real estate transaction including, but not limited to, viewing a property, seeking information about a property, or negotiating directly or indirectly with an agent about a property listed by such agent; and no agent refuses to show a property listed by that agent or otherwise deal with a represented customer who requests that the customer's agent or representative be present at any step in the real estate transaction, except as provided in this subrule.

a. The customer's agent or representative does not have the right to be present at any discussion of confidential matters or evaluation of the offer by the seller and the listing agent.

b. Unless the seller provides written instructions to the listing agent to exclude a customer's agent or representative from being present when the offer is presented, it is not unlawful for the customer's agent or representative to be present.

c. Compliance with this rule does not need or obligate a listing broker to share any commission or to otherwise compensate a customer's agent.

[ARC 7769C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed May 25, 1953; amended June 11, 1953, May 31, 1957, January 15, 1963, May 10, 1966, July 13, 1967, August 10, 1973, December 11, 1973, May 13, 1975]

[Filed 9/3/76, Notice 7/12/76—published 9/22/76, effective 10/27/76]

[Filed 6/8/78, Notice 5/3/78—published 6/28/78, effective 8/2/78]

[Filed 5/30/79, Notice 3/21/79—published 6/27/79, effective 8/1/79]

[Filed 3/27/81, Notices 8/20/80, 2/18/81—published 4/15/81, effective 5/20/81]

[Filed emergency 5/22/81—published 6/10/81, effective 7/1/81]

[Filed 8/28/81, Notice 4/29/81—published 9/16/81, effective 10/22/81]

[Filed 10/7/81, Notice 8/19/81—published 10/28/81, effective 12/2/81]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed 2/12/82, Notice 12/23/81—published 3/3/82, effective 4/7/82]

[Filed without Notice 2/26/82—published 3/17/82, effective 4/21/82]

[Filed 5/6/82, Notice 3/17/82—published 5/26/82, effective 6/30/82]

[Filed 6/3/82, Notices 4/28/82—published 6/23/82, effective 7/29/82]

[Filed emergency 7/2/82—published 7/21/82, effective 7/2/82]

[Filed 9/10/82, Notice 5/26/82—published 9/29/82, effective 11/3/82]

- [Filed 9/10/82, Notice 7/21/82—published 9/29/82, effective 11/3/82]
 [Filed 3/23/83, Notice 1/5/83—published 4/13/83, effective 7/1/83]
 [Filed 6/17/83, Notice 1/5/83—published 7/6/83, effective 8/10/83]
 [Filed 8/26/83, Notice 7/6/83—published 9/14/83, effective 10/20/83]
 [Filed 12/15/83, Notice 10/26/83—published 1/4/84, effective 2/9/84]
 [Filed 3/8/84, Notice 1/4/84—published 3/28/84, effective 5/2/84¹]
 [Filed without Notice 6/15/84—published 7/4/84, effective 8/8/84]
 [Filed emergency after Notice 5/1/85, Notice 2/13/85—published 5/22/85, effective 5/1/85]
 [Filed emergency 7/19/85—published 8/14/85, effective 7/19/85]
 [Filed without Notice 8/23/85—published 9/11/85, effective 10/16/85]
 [Filed 9/18/86, Notice 7/16/86—published 10/8/86, effective 11/12/86]
 [Filed emergency after Notice 10/1/87, Notice 8/26/87—published 10/21/87, effective 10/2/87]
 [Filed 10/2/87, Notice 8/26/87—published 10/21/87, effective 11/25/87]
 [Filed 5/26/88, Notice 3/9/88—published 6/15/88, effective 7/20/88]
 [Filed 4/25/89, Notice 3/8/89—published 5/17/89, effective 6/21/89]
 [Filed 12/4/92, Notice 9/30/92—published 12/23/92, effective 1/27/93]
 [Filed emergency 1/29/93—published 2/17/93, effective 1/29/93]
 [Filed 6/4/93, Notice 3/31/93—published 6/23/93, effective 7/29/93²]
 [Filed 4/4/94, Notice 2/16/94—published 4/27/94, effective 6/1/94]
 [Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]
 [Filed 12/1/95, Notice 10/25/95—published 12/20/95, effective 1/24/96]
 [Filed 5/2/96, Notice 3/13/96—published 5/22/96, effective 6/26/96]
 [Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
 [Filed 8/22/97, Notice 7/2/97—published 9/10/97, effective 10/15/97]
 [Filed 12/11/98, Notice 8/12/98—published 12/30/98, effective 2/3/99]
 [Filed 12/11/98, Notice 9/23/98—published 12/30/98, effective 2/3/99]
 [Filed 5/28/99, Notice 3/24/99—published 6/16/99, effective 7/21/99]
 [Filed 3/2/00, Notice 1/12/00—published 3/22/00, effective 4/26/00³]
 [Filed emergency 6/8/00—published 6/28/00, effective 6/9/00]
 [Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]
 [Filed 12/16/05, Notice 10/26/05—published 1/18/06, effective 2/22/06]
 [Editorial change: IAC Supplement 11/4/09]
 [Filed ARC 8519B (Notice ARC 8291B, IAB 11/18/09), IAB 2/10/10, effective 3/17/10]
 [Filed ARC 3500C (Notice ARC 3154C, IAB 7/5/17), IAB 12/6/17, effective 1/10/18]
 [Filed ARC 7769C (Notice ARC 7448C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

¹ Effective date of amendment to rule 1.21 delayed 70 days by the Administrative Rules Review Committee.

² Effective date of 1.31(543B) delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 1993.

³ Effective date of 1.1, definition of “referral fee”; 1.41, introductory paragraph; and subrules 1.41(3) and 1.41(7) delayed 70 days by the Administrative Rules Review Committee at its meeting held April 7, 2000; rescinded IAB 6/28/00, effective 6/9/00.

CHAPTER 8
CLOSING A REAL ESTATE BUSINESS

193E—8.1(543B) Closing a real estate firm. The following steps are necessary for the voluntary closing of a real estate brokerage firm. The individual broker or the designated broker:

8.1(1) Notifies the commission via electronic application upon closing the firm. The following information may be included:

- a. The date the firm closed or will close;
- b. The location where records and files will be stored for a minimum of five years; and
- c. The name, address, and telephone number of the custodian who will be storing the records and files;

8.1(2) Notifies all licensees associated with the firm in writing of the effective date of the closing. The former affiliated broker makes every reasonable effort to return the licenses of any licensees associated with the firm at the time of closing to the commission within 72 hours, with written notice that the firm is closed;

8.1(3) Notifies all listing and management clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the firm will close. All listing and management clients are advised in writing that they may enter into a new listing or management agreement with the broker of their choice;

8.1(4) Removes advertising signs from all properties that were listed with or managed by the firm. Arranges to cancel advertising in the name of the firm, including office signs, Internet to include websites and social media, and telephone listing advertisements;

8.1(5) Maintains all escrow or trust accounts until all moneys are transferred to the lending institution, an escrow company or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds; and

8.1(6) Arranges for pending contracts to be closed by a lending institution, an escrow company or an attorney. In the case of a sale, transfer or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the express written consent of all parties to the transactions. The broker notifies all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

[ARC 7770C, IAB 4/17/24, effective 5/22/24]

193E—8.2(543B) Involuntary closing of a sole-proprietor brokerage. Upon the death or disability of a sole-proprietor broker in which the affairs of the broker cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

8.2(1) All licensees associated with the broker cease all brokerage activity until their licenses have been transferred to another broker;

8.2(2) The executor or legal representative of the broker's estate, if an attorney or a broker, may conclude pending business; and

8.2(3) The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

[ARC 7770C, IAB 4/17/24, effective 5/22/24]

193E—8.3(543B) Involuntary closing of a corporation, partnership, or association brokerage firm.

8.3(1) In the event of an involuntary closing of a brokerage firm as a result of the death or incapacity of one or more of the licensed broker officers, broker partners or broker associates of a real estate corporation, partnership or association in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

a. All licensees associated with the firm cease all brokerage activity until their licenses have been transferred to another broker;

b. The executor of the broker's estate, if an attorney, or the legal representative of the firm may conclude pending business; and

c. The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

8.3(2) In the event of the death or incapacity of a designated broker for a firm, the affairs of the firm may be carried on by naming a new designated broker. The commission is notified of the change within 72 hours.

[ARC 7770C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 7770C (Notice ARC 7449C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 9

FEES

[Prior to 9/4/02, see 193E—2.9(543B)]

193E—9.1(543B) Fees.**9.1(1) Original license or renewal.**

Broker license	\$170
Additional officer or partner license	\$50
Firm license	\$170
Branch office license	\$50
Trade name license	\$50
Salesperson license	\$125

9.1(2) Fee for renewal of broker and salesperson license between January 1 and January 30 following expiration of license is the regular renewal fee plus \$25 reinstatement fee.

Broker license	\$195
Salesperson license	\$150

Reinstatement fee is not applicable to a firm license, additional officer license, additional partner license, trade name license, or branch office license.

9.1(3) Fee for certification of license is \$25.

[ARC 7771C, IAB 4/17/24, effective 5/22/24]

193E—9.2(543B) Refunds and bad payments.

9.2(1) Fees remitted with an application for license will be refunded if the commission finds the applicant is not qualified for a license.

9.2(2) Fees will not be refunded for the unexpired term of a license that has been issued and is in effect.

9.2(3) A fee remitted in error will be refunded if it is received as a separate check. If not received as a separate check, a fee remitted in error will be refunded if a written request is received within 30 days of receipt of the fee.

9.2(4) Payment of a fee with a bad payment is prima facie evidence of a violation of Iowa Code section 543B.29(1) or 543B.34(8) or both.

9.2(5) If a bad payment is received for an original license, the application for license is deemed incomplete and the license null and void.

9.2(6) If a bad payment is received for renewal of a license, the application is deemed incomplete and the license issued for the new term is deemed null and void. If a replacement payment is not received by the commission by the date of expiration of the license (December 31), the appropriate reinstatement fee is added to the unpaid renewal fee.

[ARC 7771C, IAB 4/17/24, effective 5/22/24]

193E—9.3(543B) Examination fee. The examination fee is paid directly to the testing service at the prevailing rate established by contract between the commission and the testing service.

[ARC 7771C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 543B.27.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 7771C (Notice ARC 7450C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 10
ADVERTISING

[Prior to 9/4/02, see 193E—Ch 1]

193E—10.1(543B) Advertising. A broker cannot advertise to sell, buy, exchange, rent, or lease property in a manner indicating that the offer is being made by a private party not engaged in the real estate business, and no real estate advertisement can show only a post office box number, telephone number or street address. Every licensee, when advertising real estate, will use the licensed business name or the name under which the broker is licensed, and affirmatively and unmistakably indicate that the party is a real estate licensee and not a private party. Each broker when operating under a franchise or trade name other than the broker's own name may license the franchise or trade name with the commission, or clearly reveal in all advertising that the broker is the licensed individual who owns the entity using the franchise or trade name.

10.1(1) Advertising includes all forms of identification, representation, promotion and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. Forms of advertising include, but are not limited to, real estate brokerage checks, letterhead, email, signs, websites, social media and business cards.

10.1(2) Real estate advertising cannot be misleading or deceptive or intentionally misrepresent any property, terms, values, or policies and services of the brokerage.

10.1(3) All advertising is conducted under the supervision of the broker. The broker ensures the accuracy of the information and, upon becoming aware of a material error or an advertisement that is in violation of this chapter or Iowa Code chapter 543B, the broker promptly corrects the error or problem within ten calendar days.

10.1(4) A licensed firm advertising or marketing on a website or social media account that is either owned by or controlled by the licensed firm includes the following data on each page of the site on which the firm's advertisement or information appears:

- a. The firm or tradename as registered with the commission (abbreviations are not permitted);
- b. The city and state in which the firm's main office is located; and
- c. The states in which the firm holds a real estate brokerage license.

10.1(5) A licensee advertising or marketing on a website or social media account that is either owned by or controlled by the licensee includes the following data on each page of the site on which the licensee's advertisement or information appears:

- a. The licensee's legal name;
- b. The name of the firm or trade name with which the licensee is affiliated as that firm name is registered with the commission (abbreviations are not permitted);
- c. The city and state in which the licensee's office is located; and
- d. The states in which the licensee holds a real estate broker or salesperson license.

10.1(6) A firm using any Internet electronic communication for advertising or marketing, including but not limited to email, websites, and social media accounts, includes the information in rule 193E—10.1(4).

10.1(7) A licensee using any Internet electronic communication for advertising or marketing, including but not limited to email, websites, and social media accounts, includes on the first or last page of all communications the information in subrule 10.1(5).

[ARC 7772C, IAB 4/17/24, effective 5/22/24]

193E—10.2(543B) Advertising under own name. Salespersons and broker associates are barred from advertising under their own names unless they are the owners of the property they are advertising for sale, rent, lease or exchange, and on which no brokerage fees are to be paid. The sale is completely a "for sale by owner" transaction. The property cannot be listed or advertised in any way that would make it appear to be listed with a brokerage. The affiliated licensee cannot function in any capacity that needs a real estate license, and the licensee is responsible for all advertising conducted on the licensee's own behalf.

[ARC 7772C, IAB 4/17/24, effective 5/22/24]

193E—10.3(543B) Signs on property. Placing a sign on any property offering it for sale, rent, lease, or exchange without the written consent of the owner is not considered in the best interest of the general public.

10.3(1) When a listing expires, unless a new written listing or extension is obtained, the licensee immediately ceases advertising and active marketing of the property. The licensee makes every reasonable effort to remove signs as quickly as possible.

10.3(2) The licensee makes every reasonable effort to remove signs from the property after the transaction is closed. Sold signs and other signs are not left on properties without the written consent of the new owner of record.

[ARC 7772C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 7772C (Notice ARC 7451C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 11
BROKERAGE AGREEMENTS AND LISTINGS

[Prior to 9/4/02, see 193E—Ch 1]

193E—11.1(543B) Listing brokerage agreements. All listing agreements are in writing, properly identifying the property and containing all of the terms and conditions under which the property is to be sold, including the price, the commission to be paid, the signatures of all parties concerned and a definite expiration date. The agreement contains no provision requiring a party signing the listing to notify the broker of the listing party's intention to cancel the listing after such definite expiration date. An exclusive agency or exclusive right to sell listing clearly indicates that it is such an agreement. A legible copy of every written listing agreement or other written authorization is given to the owner of the property by a licensee as soon as the signature of the owner is obtained.

11.1(1) A licensee cannot solicit or enter into a listing or brokerage agreement with an owner if the licensee knows or has reason to know that the owner has a written unexpired exclusive agency or exclusive right to sell listing agreement to the property with another broker, unless the owner initiates the discussion and the licensee has not directly or indirectly solicited the listing or brokerage agreement.

a. However, if the owner initiates the discussion, the licensee may negotiate and enter into a listing or brokerage agreement that will take effect after the expiration of the current listing.

b. If the owner initiates the discussion, the licensee may inform the owner that the owner needs to allow the current listing to expire or obtain a mutually acceptable cancellation from the listing broker before any further discussion can take place.

11.1(2) A real estate licensee cannot negotiate a sale, exchange, or lease of real property directly with an owner if it is known that the owner has a written unexpired contract in connection with the property which grants an exclusive right to sell to another broker, or which grants an exclusive agency to another broker.

11.1(3) A listing agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

11.1(4) Net listing barred. No licensee makes or enters into a net listing agreement for the sale of real property or any interest in real property. A net listing agreement is an agreement that specifies a net sale price to be received by the owner with the excess over that price to be received by the broker as commission. The taking of a net listing is unprofessional conduct and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

11.1(5) A real estate licensee cannot induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

11.1(6) Any commission or fee in any listing agreement is fully negotiable among the parties to that listing agreement. Once the parties to a listing agreement have agreed to a commission or fee, no licensee other than a party to the listing agreement attempts to alter, modify, or change or induce another person to alter, modify or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that listing agreement.

[ARC 7773C, IAB 4/17/24, effective 5/22/24]

193E—11.2(543B) Enforcing a protective clause. To enforce a protective clause beyond the expiration of an exclusive listing contract, there is a provision for the protective clause in the listing contract which establishes a definite protection period. In writing and prior to the expiration of the listing, the broker furnishes to the listing party the names and available contact information of persons to whom the property was presented during the active term of the listing and for whom protection is sought. Delivery is by personal service with written acknowledgment of receipt, or by both regular mail and certified mail, return receipt requested.

[ARC 7773C, IAB 4/17/24, effective 5/22/24]

193E—11.3(543B) Brokerage agreements. All brokerage agreements are written and cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all

parties to the original agreement, unless the terms of the agreement state otherwise. Upon termination of association or employment with the principal broker, the affiliated broker associate or salesperson cannot take or use any written brokerage agreements secured during the association or employment. Said brokerage agreements remain the property of the principal broker and may be canceled only by the broker and the client.

11.3(1) Every written brokerage agreement includes, at a minimum, the criteria set forth in Iowa Code section 543B.57 and the following provisions:

a. All listing contracts and all brokerage agency contracts contain a statement disclosing the brokerage policy on cooperating with and compensating other brokerages whether the brokerage is acting as subagent or the other parties' agent in the sale, lease, rental, or purchase of real estate, including whether the brokerage intends to share the compensation with other brokerages. Such disclosure serves to inform the client of any policy that would limit the participation of any other brokerage; and

b. All listing contracts and all brokerage agency contracts comply with Iowa real estate law and commission rules including, but not limited to, rules 193E—11.1(543B) and 193E—11.4(543B) and 193E—Chapter 15.

11.3(2) No licensee makes or enters into a brokerage agreement that specifies a net sale, lease, rental, or exchange price to be received by an owner and the excess to be received by the licensee as a commission.

11.3(3) The taking of a net brokerage agreement is unprofessional conduct and a practice that is harmful or detrimental to the public and constitutes a violation of Iowa Code sections 543B.29(3) and 543B.34(8).

11.3(4) Duration of relationship. The relationships commence at the time of the brokerage agreement and continue until closing of the transaction or performance or completion of the agreement by which the broker was engaged within the term of the agreement. If the transaction does not close, or the agreement for which the broker was engaged is not performed or completed for any reason, the relationship ends at the earlier of the following:

a. Any date of expiration agreed upon by the parties; or

b. Any termination by written agreement of the parties.

11.3(5) Obligation terminated. In addition to any continuing duty or obligation provided in the written agreement or pursuant to Iowa law and commission rules, a broker or brokerage engaged as a seller's or landlord's agent, buyer's or tenant's agent, subagent, or dual agent and affiliated licensees have the duty after termination, expiration, completion, or performance of the brokerage agreement to:

a. Account for all moneys and property related to and received during the engagement; and

b. Keep confidential all information received during the course of the engagement which was made confidential by request or instructions from the engaging party or is otherwise confidential by statute or rule.

11.3(6) Compensation. In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, the landlord, the tenant, a third party, or the sharing or splitting of a commission or compensation between brokers.

a. Payment of compensation is not to be construed to determine or establish an agency relationship. The payment of compensation to a broker does not determine whether a brokerage relationship has been created between any broker and a seller, landlord, buyer, or tenant paying such compensation.

b. Written permission of the client is needed as follows:

(1) A seller's or landlord's agent may share the commission or other compensation paid by such seller or landlord with another broker, with the written consent of the seller or landlord.

(2) A buyer's or tenant's agent may share the commission or other compensation paid by such buyer or tenant with another broker, with the written consent of the buyer or tenant.

(3) Without the written approval of the client, a seller's or landlord's agent cannot propose to the buyer's or tenant's agent that such seller's or landlord's agent may be compensated by sharing compensation paid by such buyer or tenant.

(4) Without the written approval of the client, a buyer's or tenant's agent cannot propose to the seller's or landlord's agent that such buyer's or tenant's agent may be compensated by sharing compensation paid by such seller or landlord.

c. A broker may be compensated by more than one party for services in a transaction if the parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, lease, or exchange.

d. A licensee cannot accept, receive or charge an undisclosed commission for a transaction.

e. A licensee cannot give or pay an undisclosed commission to any other licensee for a transaction, except payment for referrals to other licensees, including franchise affiliates, to provide real estate brokerage services, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service.

f. A licensee cannot pay any undisclosed rebate to any party to a transaction.

g. A licensee cannot give any undisclosed credit against commission due from a client or licensee to any party to a transaction.

h. A licensee cannot accept, receive or charge any undisclosed payments for any services provided by any third party to any party to a transaction including, but not limited to, payments for procuring insurance or for conducting a property inspection related to the transaction.

i. The provisions of these rules do not apply to a gratuitous gift, such as flowers or a door knocker, to a buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease, as long as any client relationship has terminated.

j. The provisions of these rules do not apply to a free gift, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease prior to the parties' signing a contract to purchase or lease and not promised or offered as an inducement to sell, buy, or lease, as long as no client relationship has been established with the buyer or lessee.

11.3(7) Solicitation of brokerage agreements. A licensee cannot advise, counsel, or solicit a brokerage agreement from a seller or buyer, or landlord or tenant, if the licensee knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has contracted with another broker for the same brokerage services on an exclusive basis.

a. This rule does not preclude a broker from entering into a brokerage agreement with a seller or buyer, or landlord or tenant, when the initial contact is initiated by the seller or buyer, or landlord or tenant, and the licensee has not directly or indirectly solicited the discussion, provided the brokerage agreement does not become effective until the expiration or release of the current brokerage agreement.

b. A brokerage agreement cannot be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

11.3(8) Any commission or fee in any brokerage agreement is fully negotiable among the parties to that brokerage agreement. Once the parties to a brokerage agreement have agreed to a commission or fee, no licensee other than a party to that brokerage agreement attempts to alter, modify, or change or induce another person to alter, modify, or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that brokerage agreement.

11.3(9) A commission split agreement between brokers needs to be a separate document and not included in the purchase agreement. A purchase agreement should not be made contingent upon the selling broker's receiving a certain percentage of the listing broker's commission.

[ARC 7773C, IAB 4/17/24, effective 5/22/24]

193E—11.4(543B) Terms or conditions. A licensee cannot write, prepare or otherwise use a contract containing terms or conditions that would violate real estate laws in Iowa Code chapter 543B or commission rules.

The broker is responsible to ensure that all preprinted documents and forms used are in compliance with these rules.

[ARC 7773C, IAB 4/17/24, effective 5/22/24]

193E—11.5(543B) Distribution of executed instruments. Upon execution of any instrument in connection with a real estate transaction, a licensee, as soon as practicable, delivers a legible copy of

the original instrument to each of the parties thereto. It is the responsibility of the licensee to prepare sufficient copies of such instruments to satisfy this criteria. The broker retains copies for five years.

[ARC 7773C, IAB 4/17/24, effective 5/22/24]

193E—11.6(543B) Rebates and inducements.

11.6(1) A licensee cannot pay a commission, any part of a commission, or valuable consideration to an unlicensed third party for performing brokerage functions or engaging in any activity that needs a real estate license. Referral fees or finder's fees paid to unlicensed third parties for performing brokerage activities, or engaging in any activity that needs a real estate license, are barred.

11.6(2) In a listing contract, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller or landlord that is a principal party to the listing contract. This will be deemed a reduction in the amount of the earned commission.

11.6(3) A licensee may present a gratuitous gift, such as flowers or a door knocker, to the buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as any client relationship has terminated.

11.6(4) A licensee may present free gifts, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease, prior to that party's signing a contract to purchase or lease and not promised or offered as an inducement to buy or lease. It is the licensee's responsibility to ensure that the promotion is in compliance with other Iowa laws, such as gaming regulations. The permission and disclosure criteria of rule 193E—11.3(543B) do not apply as long as no client relationship has been established with the buyer or lessee.

11.6(5) The offering by a licensee of a free gift, prize, money, or other valuable consideration as an inducement is free from deception and does not serve to distort the true value of the real estate service being promoted.

11.6(6) A licensee may make donations to a charity, or other not-for-profit organization, for each listing or closing, or both, that the licensee has during a specific time period. The receiving entity may be selected by the licensee or by a party to the transaction. The contribution may be in the name of the licensee or in the name of a party to the transaction. Contributions are permissible only if the following conditions are met:

- a. There are no limitations placed on the payment;
- b. The donation is for a specific amount;
- c. The receiving entity does not act or participate in any manner that would need a license;
- d. The licensee exercises reasonable care to ensure that the organization or fund is a bona fide nonprofit;
- e. The licensee exercises reasonable care to ensure that the promotional materials clearly explain the terms under which the donation will be made; and
- f. All necessary disclosures are made.

[ARC 7773C, IAB 4/17/24, effective 5/22/24]

193E—11.7(543B) New construction. A contract with a builder to construct or attach personal property or other type of structure to land and thereby produce an improvement to real estate is a real estate transaction. A licensee makes written disclosure revealing that the licensee and the licensee's broker or brokerage firm will receive a commission, compensation, or valuable consideration for its efforts in the transaction, as obligated by paragraph 11.3(6) "d." Written disclosure is necessary regardless of the type of representation provided by the licensee or if the licensee provides no representation.

[ARC 7773C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 9505B (Notice ARC 9389B, IAB 2/23/11), IAB 5/18/11, effective 6/22/11]

[Filed ARC 9929B (Notice ARC 9753B, IAB 9/21/11), IAB 12/28/11, effective 2/1/12]

[Filed ARC 7773C (Notice ARC 7452C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 12
DISCLOSURE OF RELATIONSHIPS

[Prior to 9/4/02, see 193E—Ch 1]

193E—12.1(543B) Written company policy needed. Every licensed sole-proprietor single broker, firm, partnership, limited liability company, association, or corporation has a written company policy. Regardless of the type or types of agency relationships offered, a written company policy is needed.

12.1(1) The written company policy identifies and describes the types of real estate brokerage relationships in which the broker and affiliated licensees may engage with seller, landlord, buyer, or tenant as a part of any real estate brokerage business activities.

12.1(2) In addition, every real estate brokerage that offers representation to both buyers and sellers, and tenants and landlords, also specifically addresses the following:

a. The appointed agent's policy and brokerage procedures intended to prevent any mishandling of information through both formal and informal sharing of information within the brokerage; and

b. The arrangement of brokerage office space and the personal relationships of affiliated licensees who are representing clients with adverse interests.

12.1(3) A broker is not obligated to offer or engage in more than one type of brokerage relationship as enumerated in rules 193E—12.3(543B) through 193E—12.5(543B).

[ARC 7774C, IAB 4/17/24, effective 5/22/24]

193E—12.2(543B) Disclosure of agency.

12.2(1) A licensee cannot represent any party or parties to a real estate transaction or otherwise act as a real estate broker or salesperson unless that licensee makes disclosure to all obligated parties to the transaction identifying which party or parties, if any, that licensee represents in the transaction. Disclosure pursuant to this rule is made by the licensee at the time the licensee provides specific assistance to the client or nonrepresented customer.

12.2(2) Verbal disclosure needed. The disclosure obligated by subrule 12.2(1) is made verbally by the licensee prior to the licensee's providing specific assistance to the client or nonrepresented customer. A change in the licensee's representation that makes the initial verbal disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made immediately.

12.2(3) Written disclosure needed. The written disclosure obligated by subrule 12.2(1) is made by the licensee to all parties to a real estate transaction identifying which party the licensee represents in the transaction.

a. The written disclosure is needed to be made to the buyer or tenant prior to any offer, lease, or rental agreement being made or signed by the buyer or tenant, and prior to any offer, lease, or rental agreement being signed or accepted by the seller or landlord.

b. The written disclosure is acknowledged by separate signatures of all parties to the transaction. A change in the licensee's representation that makes the initial written disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made which is followed by a new written disclosure signed by all parties to the transaction as soon as practical.

12.2(4) A licensee representing a buyer or tenant informs the listing broker, the listing agent, or the seller or landlord of the agency relationship in accordance with Iowa Code section 543B.57(5). If the property is not listed, the obligated disclosure is made to the unrepresented seller or landlord.

12.2(5) The seller or landlord may, in the listing or brokerage agreement, authorize the seller's or landlord's broker to disburse part of the broker's compensation to other brokers, including a buyer's or tenant's broker solely representing the buyer or tenant.

12.2(6) Nothing contained in this rule obligates any buyer or tenant or seller or landlord to pay compensation to a licensee unless the buyer or tenant or seller or landlord has entered into a written listing or brokerage agreement with the broker specifying the compensation terms and conditions, in accordance with Iowa real estate license law and commission rules.

12.2(7) The obligation of either the seller or landlord or buyer or tenant to pay compensation to a broker does not establish an agency relationship or affect any agency relationship.

12.2(8) Nothing contained in this rule bars a party from entering into a written listing or brokerage agreement with a broker which contains duties, obligations, and responsibilities that are in addition to those specified in Iowa real estate license law and commission rules.

12.2(9) A licensee cannot be the agent for both the buyer or tenant without following Iowa Code section 543B.58(1).

12.2(10) A licensee may work with and establish different types of agency relationships with the same client, in separate transactions. Examples of different agency relationships with the same client in separate transactions include, but are not limited to, the following:

a. A common example includes a licensee acting as a listing or seller's agent selling a property in one transaction and also working with and representing this same person in another transaction as a buyer's agent in the purchase of a different property.

b. A licensee may act as a dual agent in either of the separate transactions, or both, with the written permission of the parties to the specific transaction and if the broker or brokerage has a written company policy that includes disclosed dual agency for in-house transactions or same agent transactions.

c. Regardless of the type of agency relationship provided in each transaction, the licensee complies with the criteria of Iowa Code chapter 543B and this rule in establishing the relationships for each separate transaction.

12.2(11) An agency relationship disclosure is not needed when the licensee is acting solely as a principal and not as an agent for another or when a written communication from the licensee is a solicitation of business.

12.2(12) If the seller, landlord, buyer, or tenant rejects representation, or refuses to sign the agency disclosure document, or refuses to sign acknowledging receipt of the disclosure, the licensee notes that fact and includes the date, place, time, and the names of others in attendance on a copy of the agency disclosure document and obtains other documentation establishing delivery of the disclosure and maintains the written documentation, including but not limited to copies of facsimile, restricted delivery certified mail, and other communications, in the transaction file.

12.2(13) A licensee who is offering real estate brokerage services as an auctioneer makes the written disclosure to the buyer and obtains the acknowledgment of receipt obligated by law and rules, prior to the buyer's entering into a written purchase agreement for the property. For the purposes of this rule, the identification of the successful bidder constitutes the first meaningful contact with a buyer when specific assistance is provided. After the first meaningful contact, the first practical opportunity to make the necessary disclosures to the buyer depends upon the circumstances. While it is not necessary, it is recommended that licensees disclose in all advertisements and flyers that they are licensed agents representing the seller and, prior to crying the auction, announce that they are licensed real estate agents representing the seller.

a. Disclosure under this rule applies only to the day of the auction.

b. If the licensee provides brokerage services prior to the auction, the disclosure is made either orally or in writing prior to or at the time of specific assistance being provided.

12.2(14) The licensee retains a copy of the disclosure form signed by the prospective buyer, seller, landlord or tenant, or the documentation and copies as obligated in subrule 12.2(12) as follows:

a. If an offer is accepted, the signed or noted copy is retained by the broker in the closed transaction file for a period of five years from the date of the signature or note.

b. If the offer is not accepted, a signed and noted copy is retained with the rejected offer for a period of five years.

12.2(15) Failure of a licensee to comply with this rule is prima facie evidence of a violation of Iowa Code section 543B.34(4).

12.2(16) Failure of a licensee to act consistent with disclosure representations made pursuant to this rule is prima facie evidence of a violation of Iowa Code section 543B.34(4).

12.2(17) Nothing in this rule affects the validity of title to real property transferred based solely on the reason that any licensee failed to conform to the provisions of this rule.

12.2(18) A sole-proprietor single broker or firm is not obligated to offer or engage in more than one type of brokerage relationship as enumerated in rules 193E—12.3(543B) through 193E—12.5(543B).

12.2(19) The licensee offering brokerage services to a person as a buyer's or tenant's agent, or who is providing brokerage services to a person as a seller's or landlord's agent, discloses in writing to that person the type or types of brokerage relationships the broker and affiliated licensees are offering to that person before entering into a listing or brokerage agreement with that person.

[ARC 7774C, IAB 4/17/24, effective 5/22/24]

193E—12.3(543B) Single agent representing a seller or landlord.

12.3(1) *Duty to seller or landlord.* A licensee representing a seller or landlord as an exclusive seller's agent or an exclusive landlord's agent have the following duties and obligations:

a. Perform the terms of the written agreement made with the seller or landlord;
b. Exercise reasonable skill and care for the seller or landlord;
c. Promote the interests of the seller or landlord with the utmost care, integrity, honesty, and loyalty, including but not limited to the following:

(1) Seeking a price and terms which are acceptable to the seller or landlord, except that the licensee is not obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;

(2) Presenting all written offers to and from the seller or landlord in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease, unless it is provided for by the brokerage agreement;

(3) Disclosing to the seller or landlord all material adverse facts pursuant to Iowa Code section 543B.56(1);

(4) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(5) Preserving the seller's or landlord's confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law or unless failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:

1. Information concerning the seller or the landlord that, if disclosed to the other party, could place the seller or landlord at a disadvantage when bargaining;

2. That the seller or landlord is willing to accept less than the asking price or lease price for the property;

3. What the motivating factors are for the client's selling or leasing the property;

4. That the seller or landlord will agree to sale, lease, or financing terms other than those offered;

5. The seller's or landlord's real estate needs;

6. The seller's or landlord's financial information;

(6) Accounting in a timely manner for all money and property received;

(7) Providing brokerage services to all parties to the transaction honestly and in good faith;

(8) Complying with all criteria of Iowa Code chapter 543B and all commission rules and regulations;

(9) Complying with any applicable federal, state, or local laws, rules, or ordinances, including fair housing and civil rights statutes and regulations.

12.3(2) *Duty to a buyer or tenant.* A licensee acting as an exclusive seller's or exclusive landlord's agent discloses to any customer all material adverse facts actually known by the licensee pursuant to Iowa Code section 543B.56.

a. The licensee owes no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant and owes no duty to independently verify the accuracy or completeness of any statement made by the seller or landlord or any independent inspector, unless the licensee knows or has reason to believe the information is not accurate.

b. Nothing in this rule precludes the obligation of a buyer or tenant from the responsibility of protecting the buyer's or the tenant's own interest by means of, but not limited to, inspecting the physical condition of the property and verifying important information.

c. A seller or landlord may agree in writing with an exclusive seller's or exclusive landlord's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the seller's or landlord's behalf is an agent with the same obligations and responsibilities to the seller or landlord as the primary broker of the seller or landlord.

d. A real estate brokerage engaged by a seller or landlord in a real estate transaction may provide assistance to an unrepresented buyer or tenant by performing such acts as preparing offers and conveying those offers to the seller or landlord and providing information and assistance concerning professional services not related to real estate brokerage services.

12.3(3) *Alternative properties.* The licensee may show alternative properties not owned by the seller or landlord to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the seller or landlord.

[ARC 7774C, IAB 4/17/24, effective 5/22/24]

193E—12.4(543B) Single agent representing a buyer or tenant.

12.4(1) *Duty to buyer or tenant.* A licensee representing a buyer or tenant as an exclusive buyer's or an exclusive tenant's agent have the same duties and obligations as mentioned in subrule 12.3(1).

a. Perform the terms of any written agreement made with the client;
 b. Exercise reasonable skill and care for the client;
 c. Promote the interests of the client with the utmost good faith, loyalty, and fidelity, including but not limited to the following:

(1) Seeking a property at a price and terms which are acceptable to the buyer or tenant, except that the licensee is not obligated to seek other properties while the client is a party to a contract to purchase property, or to a lease or letter of intent to lease, unless it is provided for by the brokerage agreement;

(2) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or letter of intent to lease;

(3) Disclosing to the buyer or tenant material adverse facts concerning the property and the transaction that are actually known by the licensee, pursuant to Iowa Code section 543B.56;

(4) Advising the buyer or tenant to obtain expert advice on material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(5) Preserving the buyer's or tenant's confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law or unless failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:

1. Information concerning the buyer or the tenant that, if disclosed to the other party, could place the client at a disadvantage when bargaining;

2. That the buyer or tenant is willing to pay more than the asking price or lease price for the property;

3. What the motivating factors are for the party's buying or leasing the property;

4. That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;

5. The buyer's or tenant's real estate needs;

6. The buyer's or tenant's financial qualifications;

(6) Accounting in a timely manner for all money and property received;

(7) Providing brokerage services to all parties to the transaction honestly and in good faith;

(8) Complying with all criteria of Iowa Code chapter 543B and all commission rules;

(9) Complying with any applicable federal, state, or local laws, rules, and ordinances, including fair housing and civil rights statutes and regulations.

12.4(2) *Duty to a seller or landlord.* A licensee acting as an exclusive buyer's or an exclusive tenant's agent discloses to any customer all material adverse facts actually known by the licensee, pursuant to Iowa Code section 543B.56.

a. The licensee owes no duty to conduct an independent investigation of the buyer's or tenant's financial condition for the benefit of the seller or landlord and owes no duty to verify the accuracy or

completeness of any statement made by the buyer or tenant or any independent source, unless the licensee knows or has reason to believe the information is not accurate.

b. Nothing in this rule limits the obligation of a seller or landlord from the responsibility of protecting the seller's or landlord's own interest by means of, but not limited to, verifying information concerning or provided by the buyer or tenant.

c. A buyer or tenant may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the buyer's or tenant's behalf is a single agent with the same obligations and responsibilities to the buyer or tenant as the primary broker of the buyer or tenant.

d. A real estate brokerage engaged by a buyer or tenant in a real estate transaction may provide assistance to an unrepresented seller or landlord by performing such acts as preparing offers and conveying those offers to the buyer or tenant and providing information and assistance concerning professional services not related to real estate brokerage services.

12.4(3) *Competing buyers or tenants.* The licensee may show properties in which the buyer or tenant is interested to other prospective buyers or tenants, may assist other competing buyers or tenants, and may enter into brokerage service agreements with other competing buyers or tenants without breaching any duty or obligation to the buyer or tenant.

[ARC 7774C, IAB 4/17/24, effective 5/22/24]

193E—12.5(543B) Disclosed dual agent.

12.5(1) A brokerage which has a company policy that permits disclosed dual agency for in-house transactions provides a disclosed dual agency consent agreement to the client or prospective client prior to engaging in any activities of a dual agent. If any seller, landlord, buyer, or tenant rejects dual agency, or refuses to sign consent to dual agency, the licensee cannot act as a dual agent. The dual agency consent agreement complies with Iowa law and commission rules including, but not limited to, the criteria to inform the prospective clients that they are not obligated to consent to dual agency representation as provided by subrule 12.5(2).

a. A licensee may act as a dual agent only with the informed consent of all parties to the transaction. The informed consent is evidenced by a written agreement pursuant to Iowa law and commission rules.

b. A dual agent is an agent for both the seller and buyer or the landlord and tenant and has the duties and obligations needed for a single agent representing a seller or landlord and for a single agent representing a buyer or tenant, unless otherwise provided for in this rule.

c. A dual agent discloses to the client all material adverse facts concerning the property that are actually known by the licensee, pursuant to Iowa Code section 543B.56.

d. A dual agent cannot disclose to one client confidential information about the other client and preserves a seller's or a landlord's, or a buyer's or a tenant's, confidential information as defined in rule 193E—2.1(543B), unless disclosure is mandated by law, or failure to disclose such information would constitute fraud or dishonest dealing, or disclosure is authorized by express instruction. A dual agent does not terminate the dual agency relationship by making the disclosures mandatory or permitted by the dual agency consent agreement. Confidential information includes the same information as 193E—subrule 12.3(1) or 12.4(1).

e. In any transaction, a licensee may withdraw from representing a client who has not consented to a disclosed dual agency at any time prior to the existence of the dual agency, which is prior to discussing any seller's or landlord's property with a potential buyer or tenant and prior to discussing any potential buyer or tenant with a seller or landlord, when both the seller or landlord and the buyer or tenant are represented by and are clients of the licensee.

(1) All withdrawals are made in writing and acknowledged by the separate signatures of the clients.

(2) Such withdrawal does not prejudice the ability of the licensee to continue to represent the other client in the transaction or limit the licensee from representing the client in other transactions not involving a dual agency.

12.5(2) A dual agency consent agreement:

a. Fairly and accurately describes the type of representation the licensee will provide each client;

- b. Contains a statement of the licensee's duties under Iowa Code section 543B.56(1);
- c. Contains a statement of the licensee's duties under Iowa Code section 543B.56(2);
- d. Informs the clients that representing more than one party to a transaction may present a conflict of interest;
- e. Informs the clients that they are not obligated to consent to dual agency;
- f. Provides additional information that the licensee determines is necessary to clarify the licensee's relationship with each client, including any changes from prior types of representation;
- g. Describes the confidential information a dual agent will not disclose to one client about the other client; and
- h. Includes a statement that the clients understand the licensee's duties and consent to the licensee's providing brokerage services to more than one client.

12.5(3) No particular disclosure language is needed. The commission recommends use of the following sample language to satisfy the mandatory disclosure regarding conflict of interest:

Representing more than one party to a transaction can create a conflict of interest since both clients may rely upon the broker's advice and the clients' respective interests may be adverse to each other. Broker will endeavor to be impartial between seller and buyer and will not represent the interest of either the seller or buyer to the exclusion or detriment of the other.

12.5(4) Potential dual agency agreement. A brokerage which has a company policy that permits disclosed dual agency for in-house transactions and that elects to use a potential dual agency agreement provides the agreement to the client or prospective client prior to engaging in any activities of a dual agent. Such consent agreement complies with Iowa law and commission rules.

- a. The potential dual agency agreement should be provided to the seller or landlord prior to entering into a listing agreement or a contract for seller or landlord brokerage services.
- b. The potential dual agency agreement should be provided to the buyer or tenant prior to entering into a buyer or tenant agency agreement or a contract for buyer or tenant brokerage services.
- c. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure is presented to the buyer or tenant prior to the buyer's or tenant's signing an offer to purchase or a rental or lease agreement. The buyer or tenant may accept or reject dual agency at this point in the transaction.
- d. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure is presented to the seller or landlord prior to the seller's or landlord's signing or accepting an offer to purchase or a rental or lease agreement. The seller or landlord may accept or reject dual agency at this point in the transaction.
- e. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, the obligated subsequent dual agency consent disclosure is property-specific and complies with Iowa law and commission rules.

[ARC 7774C, IAB 4/17/24, effective 5/22/24]

193E—12.6(543B) Appointed agents within a brokerage. Iowa Code section 543B.59 authorizes a designated broker to elect to appoint in writing one or more different licensees affiliated with the broker to act as agent to represent exclusively different clients in the same transaction, to the exclusion of all other affiliated licensees within the real estate brokerage. A licensee cannot disclose, except to the licensee's designated broker, information made confidential by request or instructions of the client the licensee is representing or otherwise confidential by statute or rule, except information allowed by this chapter or mandated to be disclosed by law.

12.6(1) The designated broker may want to include in the written company policy some or all of the appointed agents within the brokerage and may want to include the procedure by which the appointment of the agent or agents is made.

12.6(2) The designated broker may decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, only the affiliated licensee who, on behalf of the designated broker, entered into the listing agreement with the seller or leasing agreement with the landlord will represent the seller or landlord as that client's agent. In that

scenario, all other licensees affiliated with the designated broker will represent buyers or tenants as their agents in any transactions dealing with the subject property.

12.6(3) If any seller, landlord, buyer, or tenant who is a client of the broker refuses to sign and consent to the appointed agent within the brokerage appointed by that same broker for the other party to the transaction, then the broker and licensees affiliated with the broker cannot act as an appointed agent for that other party.

[ARC 7774C, IAB 4/17/24, effective 5/22/24]

193E—12.7(543B) Appointed agent procedures and disclosure.

12.7(1) Prior to entering into a listing or brokerage agreement, a real estate brokerage notifies a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees in accordance with Iowa Code section 543B.59(1). The appointed agent disclosure includes, at a minimum, the following provisions:

- a. The name of the appointed agent(s);
- b. A statement that the appointed agent will be representing the client as the client's agent and will owe the client duties as set forth in Iowa Code section 543B.56(1) and 543B.56(2);
- c. A statement that the brokerage may be representing both the seller and the buyer in connection with the sale or purchase of real estate;
- d. A statement that other affiliated licensees may be appointed during the term of the brokerage agreement should the appointed agent not be able to fulfill the terms of the brokerage agreement or as by agreement between the designated broker and the client. An appointment of another affiliated licensee or an additional affiliated licensee does not relieve the first appointed agent of any of the duties owed to the client. At any time of the appointment of the new or additional agents, the designated broker complies with the provisions of this rule; and
- e. A provision for the client to consent or not consent in writing to the appointment.

12.7(2) Implementation of the appointed agent within a brokerage relationship. Any broker may elect to offer the appointed agent relationship. The broker cannot implement the use of the relationship until such time as the broker has fully complied with all Iowa laws and commission rules.

a. The broker cannot, without the written consent of the clients, appoint an affiliated licensee to act as an appointed agent in any transaction involving a written exclusive single agent or dual agent brokerage agreement that was in effect prior to the broker's implementing the appointed agent relationship.

b. If the client of an appointed agent wants to consider a property on which the broker has a prior existing exclusive single agent or dual agent brokerage agreement, the broker cannot allow the use of the appointed agent without first obtaining the written consent of that particular seller or landlord to the appointed agent relationship.

c. If the written consent of the client to allow the appointed agency relationship is not given or cannot be obtained, the broker refers the client of the appointed agent to another broker for representation at least for the purpose of considering such property.

12.7(3) A designated broker cannot be considered to be a dual agent solely because the designated broker makes an appointment under this rule, except that any licensee who, with prior written consent of all parties, personally represents both the seller and buyer or both the landlord and tenant in a transaction is a dual agent and needs to comply with the rules governing dual agents.

12.7(4) Appointed agent and designated broker responsibilities.

a. A designated broker appointing an affiliated licensee(s) to act as an agent of a client takes ordinary and necessary care to protect confidential information disclosed by the client to the appointed agent.

b. An appointed agent may disclose to the brokerage's designated broker, or a designee specified by the designated broker, confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction, or to comply with the broker's supervisory duties. Confidential information is treated as such by the designated broker or other specified representative of the broker and is not disclosed unless otherwise obligated by Iowa law and

related commission rules or requested or permitted in writing by the client who originally disclosed the confidential information.

c. If a designated broker elects to use the appointed agent within a firm authority set forth in Iowa Code section 543B.59, and when the affiliated licensee appointed also acts in a supervisory capacity under the designated broker, such as branch managers, sales managers and the like, these appointed licensees may be treated in the same manner as the designated broker for purposes of determining dual agency under Iowa Code section 543B.59(2), only if the designated broker authorizes and provides for such supervisory positions in the written company policy.

(1) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a seller or landlord in a transaction.

(2) A designated broker may elect to authorize and appoint an affiliated licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a buyer or tenant in a transaction.

(3) A licensee in a supervisory capacity that is authorized and appointed to supervise and assist licensees appointed to represent a seller or landlord, or buyer or tenant, exclusively, have the same duties, obligations, and responsibilities as the designated broker.

(4) The use of an authorized appointed agent does not relieve the designated broker of duties, obligations, and responsibilities mandated by law or rules.

12.7(5) Licensee's duty to designated broker or designee. A licensee keeps the brokerage's designated broker or that broker's designee fully informed of all activities conducted on behalf of the brokerage and notifies the designated broker or that broker's designee of any other activities that might impact on the responsibility of the designated broker or that broker's designee.

[ARC 7774C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 7774C (Notice ARC 7453C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 13
TRUST ACCOUNTS AND CLOSINGS

[Prior to 9/4/02, see 193E—Ch 1]

193E—13.1(543B) Trust account. All earnest payments, all rents collected, property management funds, and other trust funds received by the broker in such capacity or broker associate or salesperson on behalf of the broker's client are deposited in a trust account maintained by the broker in an identified trust account, with the word "trust" in the name of the account, in a federally insured depository institution and, for the purposes of this rule, may be referred to as the "depository."

13.1(1) All money belonging to others received by the broker, broker associate or salesperson on the sale, rental, purchase, or exchange of real property located in Iowa are trust funds and are deposited in a trust account as directed by the principals to a transaction constituting dealing in real estate. This includes, but is not limited to, receipts from property management contracts; rental or lease contracts; advance fee contracts; escrow contracts; collection contracts; earnest money contracts; or money received by a broker for future investment or other purpose, except a nonrefundable retainer need not be placed in an escrow account if specifically provided for in the written agreement between the broker and the broker's principal.

a. All trust funds are deposited into the trust account no later than five banking days after the date indicated on the document that the last signature of acceptance of the offer to purchase, rent, lease, exchange, or option is obtained unless otherwise specified in the contract.

b. Money belonging to others cannot be invested in any type of fixed-term maturity account, security or certificate without the written consent of the party or parties to whom the money belongs.

c. A broker cannot commingle personal funds in a trust account unless authorized by Iowa Code section 543B.46(4).

The broker ensures that personal funds are deposited to cover bank service charges as specified in Iowa Code section 543B.46 and that at no time are trust moneys used to cover any charges. Upon notification that the broker's personal funds are not sufficient to cover service charges initiated by the bank that are above the normal maintenance charges, the broker deposits personal funds to correct the deficiency within 15 calendar days of the closing date of that bank statement.

d. Money held in the trust account, which becomes due and payable to the broker, is promptly withdrawn by the broker.

e. The broker cannot use the trust account as a business operating account or for personal use. Commissions, salaries, related items and normal business expenses are not disbursed directly from the trust account.

13.1(2) As authorized by Iowa Code section 543B.46(1), all interest earned on the trust account is transferred on a calendar quarter basis to the state. The amount to be remitted to the state will be the amount of interest earned less any service charges directly attributable to the criteria of maintaining an interest-bearing account and of remitting the interest to the state. The broker may have the depository remit the interest directly or the broker may remit the interest but, in either case, it is the responsibility of the broker to see that the interest is remitted.

a. If the interest is remitted by the broker, the broker should use the commission-approved Real Estate Interest Remittance Form and include a copy of the applicable bank statement(s) showing the interest paid and the service charges attributable to maintaining the account.

b. If the interest is remitted by the broker, the broker mails the interest remittance check and mandatory documentation to:

The State of Iowa
c/o Bankers Trust Company
P.O. Box 4686
Des Moines, Iowa 50306

c. The depository should use the name "Iowa Finance Authority" and the federal tax identification number (TIN) 52-1699886 on the 1099 reporting form when reporting interest to the IRS.

d. The depository should send the 1099 reporting form to:

Iowa Finance Authority
2015 Grand Avenue
Des Moines, Iowa 50312

e. If the property management or rental account is interest-bearing, the interest is transferred on a calendar quarter basis to the state unless there is a written agreement paying the interest to the property owner.

f. A broker enters into a written agreement to pay interest to a buyer or seller in a transaction, or to a third party if requested by the parties to the contract and agreed to by the broker, if the client's trust funds can earn net interest. In determining whether a client can earn net interest on funds placed in trust, the broker takes into consideration all relevant factors including the following:

- (1) The amount of interest that the funds would earn during the period in which they are reasonably expected to be deposited;
- (2) The cost of establishing and administering an individual interest-bearing trust account in which the interest would be transmitted to the client, including any needed tax forms; and
- (3) The capability of the financial institution to calculate and pay interest to individual clients through subaccounting or otherwise.

13.1(3) With disclosure to and the written agreement of all parties, a trust account may bear interest to be disbursed to (1) the buyer or seller involved in a real estate purchase, sale or exchange transaction, or (2) the property owner, if the property management or rental contract contains this specific provision, or (3) as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), or (4) a third party if requested by the parties to the contract and agreed to by the broker. Disbursements of interest on trust funds are subject to all provisions of law that obligate a broker to safeguard and account for the handling of funds of others.

13.1(4) Receipts from property management and rental account transactions may be deposited in a trust account separate from real estate transaction funds. If separately maintained, this account does not need to be an interest-bearing account.

a. The broker provides to the broker's client a complete accounting of all moneys received and disbursed from the trust account(s) not less often than annually.

b. A broker may only utilize a separate property management or rents trust account for those moneys received by a broker pursuant to a written property management or rental agreement.

13.1(5) A broker is needed to open and maintain one or more trust accounts if the broker is in the practice of depositing funds in a trust account. For each separate trust account opened, the broker files with the commission a written Consent to Examine and Audit Trust Account form, which irrevocably authorizes the commission to examine and audit the trust account. The form of consent is prescribed by and available from the commission and includes the account names and number and the name and address of the depository.

a. If the broker is not in the practice of depositing trust funds in a trust account, the broker files an affidavit with the commission on a form prescribed by and available from the commission.

b. If trust funds are received by the broker after filing an affidavit, the broker immediately opens a trust account and files the appropriate Consent to Examine and Audit Trust Account form with the commission.

c. As provided by Iowa Code section 543B.46(3), a consent to examine is not necessary for a separate farm business operating account or a separate property management account.

13.1(6) Each broker obligated to maintain a trust account maintains at all times a record of each account, as mandated by these rules, in the place of business, consisting of at least the following:

a. A record called a journal which records in chronological order all receipts and disbursements of moneys in the trust account.

(1) For receipts, the journal for each trust account includes the date, name of depositor, the check number and the amount deposited, and the name of principal or identify the property.

(2) For disbursements, the journal for each trust account includes the date, name of payee, name of principal or identify the property, the check number and the amount disbursed.

(3) The journal provides a means for monthly reconciliation on a written worksheet of the general ledger balance with the bank balance and with the individual ledger accounts to ensure agreement.

b. Real estate sales transactions additionally need an individual ledger account identified by the property or the principal, which records all receipts and disbursements of the transaction and clearly separates the transaction from all others. The individual ledger account includes the date, check number, amount, name of payee or depositor or explanation of activity with a running balance.

c. Property management trust account records additionally include an individual ledger account for each tenant, identifying the tenant's rental unit and security deposit and including all receipts and disbursements together with check number and date. The journal for each account is maintained as an owner's ledger account for all properties owned by each owner showing receipts and disbursements applicable to each property managed.

(1) All disbursements are documented by bids, contracts, invoices or other appropriate written documentation.

(2) The running balance may be determined at the time of monthly reconciliation.

d. Trust account supporting documents include, but are not limited to, the following:

- (1) Bank statements;
- (2) Canceled checks;
- (3) Copies of contracts, listing, sales, rental and leasing;
- (4) Closing statements;
- (5) Pertinent correspondence; and
- (6) Any additional items necessary to verify or explain an entry.

13.1(7) Funds, including interest on trust funds, are only disbursed from the trust account as provided in Iowa Code section 543B.46(1) and by the terms and conditions of the contract or escrow agreement. No funds are disbursed from the trust account prior to the closing, or other than as provided by the terms of the escrow agreement, without the informed written consent of all the parties. In the event of a dispute over the return or forfeiture of an earnest money deposit or the disbursement of an escrow deposit held by a broker, the broker continues to hold the deposit in the trust account until one of the following conditions is met:

a. The broker is in receipt of a written release from all parties to the transaction consenting to the disposition of the deposit or escrow funds; or

b. The broker is in receipt of a final judgment of the court directing the disposition of the deposit or escrow funds; or

c. There is a final decision of a binding alternative dispute resolution process, or mediation directing the disposition of the deposit or escrow funds; or

d. A civil court action is filed by one or more of the parties to determine the disposition of the deposit or escrow funds, at which time the broker may seek court authorization to pay the deposit or escrow funds into court.

13.1(8) No funds are disbursed from the trust account prior to the closing without the informed written consent of all the parties to the transaction as provided in subrule 13.1(7), except in accordance with this rule. Nothing in this rule obligates a broker to remove money from the broker's trust account when the disposition of such money is disputed by the parties to the transaction. The commission will not take disciplinary action against a broker who in good faith disburses trust account moneys pursuant to this rule.

a. In the absence of a pending civil court action or written agreement, it is not grounds for disciplinary action when, upon passage of 30 days from the date of the dispute, a broker disburses the earnest money deposit to a buyer, renter, or lessee in a transaction based upon a good faith decision that a contingency has not been met, but disbursement is made only after the broker has given 30 days' written notice by certified mail to all parties concerned at their last-known addresses, setting forth the broker's proposed action and the grounds for the decision.

b. In the absence of a pending civil action or written agreement, it is not grounds for disciplinary action when, upon passage of six months from the date of the dispute, a broker disburses the earnest money deposit to a seller or landlord in a transaction based upon a good faith decision that the buyer,

renter, or lessee has failed to perform as agreed, but disbursement is made only after the broker has given 30 days' written notice by certified mail to all parties concerned at their last-known addresses, setting forth the broker's proposed action and grounds for the decision.

c. If a buyer or seller, or a landlord or lessee, or a renter demands the return of the earnest money deposit, the broker consults with the other party who may agree or disagree with the return.

13.1(9) Under no circumstances is the broker entitled to withhold any portion of the earnest money when a transaction fails to consummate even if a commission is earned. The earnest money is disposed of as provided in subrule 13.1(7), 13.1(8), or 13.1(10), and the broker pursues any claim for commission or compensation against the broker's client.

13.1(10) Interpleader. Anytime the broker in good faith believes that the parties disputing the return of the deposit will not agree on the disposition of the deposit or file a civil court action to determine the disposition of the deposit, then the broker may elect to file an interpleader action with the appropriate court pursuant to Iowa Rules of Civil Procedure and pay the deposit into court. The broker may, in filing such an interpleader court action:

a. Attempt to claim a part of the deposit pursuant to the listing contract with the seller, if the seller is successful in the suit.

b. Disclaim any part of the deposit and request the court to restrain the buyer and the seller from naming the broker in the civil suit and order them to litigate their claims to the deposit.

13.1(11) A trust account may bear interest to be disbursed to the buyers or sellers or to a third party if requested by the parties to the contract and agreed to by the broker with the written approval of all parties to the contract or to the owner if the trust account is for a property management account and the management contract so specifies, or as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2). The account is a separate account from the account(s) which is to accrue interest to the state. Interest is disbursed to the owner or owners of the funds at the time of settlement of the transaction or as agreed to in the management contract and is properly accounted for on closing statements. A broker does not disburse interest on trust funds except as provided in subrules 13.1(3) and 13.1(7). Service charges for the account are a business expense of the broker and are not deducted from the proceeds.

13.1(12) Property management account funds may be withdrawn at any time for the purpose of returning the funds to the payee in accordance with the terms of the contract or receipt.

13.1(13) Property management funds may be withdrawn when and if the broker reasonably believes, from evidence available, that the tenant has obtained a rental or lease through information supplied by or on behalf of the broker.

13.1(14) Trust funds that are not traceable to any individual for disbursement from the trust account are unclaimed property. In accordance with Iowa Code chapter 556, after three years, unclaimed trust funds are reported and remitted to the Treasurer, State of Iowa, Unclaimed Property Division.

[ARC 7775C, IAB 4/17/24, effective 5/22/24]

193E—13.2(543B) Closing transactions. It is mandatory for every broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete detailed statement, showing all of the receipts and disbursements handled by the broker. Also, the broker at the same time delivers to the buyer a complete statement showing all moneys received in the transaction from the buyer and how and for what the same were disbursed.

13.2(1) In the event all funds being held by the broker for a transaction cannot be disbursed at the time of closing, the broker obtains an escrow agreement signed by both parties to the transaction which directs the broker regarding the future disbursement of the funds.

13.2(2) The broker retains all trust account records and a complete file, which includes but is not limited to the records mandated by rule 193E—13.5(543B), on each transaction for a period of at least five years after the date of the closing. Records mandated by this rule may be retained as an electronic record as provided by rule 193E—13.5(543B).

13.2(3) The listing broker is responsible for the closing even though the closing may be completed by another licensee.

13.2(4) If the closing transaction is handled through an unlicensed escrow agent and the escrow agent renders a closing statement, the listing broker ensures that funds which the broker has received or paid as part of the transaction are accounted for properly.

13.2(5) In the case of a cooperative sale between brokers, the listing broker may elect to close the transaction or, by prior agreement, authorize the selling broker to close.

a. If the listing broker so elects, the selling broker has the buyer make the earnest money check or money order payable to the listing broker and immediately delivers the earnest money check or money order along with the offer to purchase to the listing broker or listing agent.

b. Unless by prior agreement the listing broker has authorized the selling broker to close, the offer to purchase designates that the earnest money is held in trust by the listing broker.

c. Unless by prior agreement the listing broker has authorized the selling broker to close, when cash is accepted as earnest money by the selling agent, the selling agent deposits the money in the selling broker's trust account in accordance with commission rules, and then immediately transfers the earnest money deposit to the listing broker by issuing a check drawn on the selling broker's trust account.

13.2(6) Any means other than cash or an immediately cashable check are not accepted as earnest money unless that fact is communicated to the seller prior to the acceptance of the offer to purchase, and is stated in the offer to purchase.

13.2(7) Brokers acting as agents for the buyer in a specific real estate transaction have the same criteria for retention of copies as stated in this rule, except that a buyer's agent who is not a party to the listing contract is not obligated to retain a copy of the listing contract or the seller's settlement statement.

13.2(8) Iowa Court Rule 37.5, limited real estate practice. All Iowa real estate licensees should be aware that Iowa Court Rule 37.5 authorizes nonlawyers to select, prepare, and complete certain legal documents incident to residential real estate transactions of four units or less. The preparation of documents beyond that authorized by this court rule may constitute the unauthorized practice of law. [ARC 7775C, IAB 4/17/24, effective 5/22/24]

193E—13.3(543B) Salesperson cannot handle closing. A salesperson cannot handle the closing of any real estate transaction except under the direct supervision or with the consent of the employing broker. [ARC 7775C, IAB 4/17/24, effective 5/22/24]

193E—13.4(543B) Consent to return earnest money not necessary. When an offer to purchase is withdrawn or the acceptance is revoked without liability pursuant to Iowa Code chapter 558A, any earnest money deposit is promptly returned to the buyer without delay. The seller's consent and agreement to release the funds is not necessary. A copy of the written revocation or withdrawal is retained with the trust account supporting documents. [ARC 7775C, IAB 4/17/24, effective 5/22/24]

193E—13.5(543B) File recordkeeping. Every broker retains for a period of at least five years true copies of all business books; accounts, including voided checks; records; contracts; closing statements; disclosures; signed documents; the listing; any offers to purchase; and all correspondence relating to each real estate transaction that the broker has handled and each property managed. The records are made available for reproduction and inspection by the commission, staff, and commission-authorized representatives at all times during usual business hours at the broker's regular place of business. If the brokerage closes, the records are made available for reproduction and inspection by the commission, staff, and commission-authorized representatives upon request.

13.5(1) Contracts and other documents that have been changed or altered to the point where the language is unreadable and faxed contracts and documents in which the language is unreadable are not acceptable records and are redrafted and signed by the parties.

13.5(2) Copies of unreadable documents are not acceptable as true copies of the originals regardless of the medium.

13.5(3) Electronic records. The files, records, and other documents mandated by this chapter may be stored in electronic format for convenience and efficiency in a system for electronic record storage, analysis, and retrieval.

a. A record obligated by this chapter may be retained as an electronic record only if the record storage medium can be easily accessed and the records can be readily retrieved and transferred to a legible printed form upon request.

b. The scanning or electronic generation of a record is monitored to ensure that the copy is clear, legible and true before the original is shredded.

c. Once the original record is transferred to the appropriate electronic storage medium consistent with this rule, the commission will no longer need the retention of the record in its original medium. For the purposes of this chapter, electronic records are considered the same as originals.

[ARC 7775C, IAB 4/17/24, effective 5/22/24]

193E—13.6(543B) Licensee acting as a principal. When a licensee is acting in the capacity of a real estate broker, broker associate or salesperson and is also a principal in the sale, lease, rental or exchange of property owned by the licensee, all payments, rent, or security deposits received from the lessee, renter or buyer are deposited into the broker's trust account. The use of the broker's trust account is not needed if all of the following exist:

1. The sale, rental, or exchange is strictly, clearly and completely a "by owner" transaction and there is not a listing or brokerage agreement;

2. No commission or other compensation is paid to or received by the licensee; and

3. The licensee does not function throughout the transaction in any capacity requiring a real estate license.

[ARC 7775C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed emergency 4/4/03—published 4/30/03, effective 4/4/03]

[Filed 8/16/04, Notice 4/14/04—published 9/15/04, effective 10/20/04]

[Filed 2/26/08, Notice 12/19/07—published 3/26/08, effective 4/30/08]

[Filed ARC 7559B (Notice ARC 7271B, IAB 10/22/08), IAB 2/11/09, effective 3/18/09]

[Filed Without Notice ARC 0410C, IAB 10/31/12, effective 12/5/12]

[Filed ARC 3722C (Notice ARC 3564C, IAB 1/17/18), IAB 3/28/18, effective 5/2/18]

[Filed ARC 7775C (Notice ARC 7454C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 14
SELLER PROPERTY CONDITION DISCLOSURE

[Prior to 9/4/02, see 193E—Ch 1]

193E—14.1(543B) Property condition disclosure. The criteria of this chapter applies to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, “transfer” means the same as Iowa Code section 558A.1(5) and “agent” means the same as Iowa Code section 558A.1(1).

14.1(1) Additional disclosure. Nothing in this rule is intended to prevent any additional disclosure or to relieve the parties or agents in the transaction from making any disclosure otherwise mandated by law or contract.

14.1(2) Licensee responsibilities to seller. At the time a licensee obtains a listing, the listing licensee obtains a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller delivers the executed statement to a potential buyer, a potential buyer’s agent, or any other third party who may be representing a potential buyer, prior to the seller’s making a written offer to sell or the seller’s accepting a written offer to buy.

b. The licensee representing a seller attempts to obtain the buyer’s signature and date of signature on the statement and provides the seller and the buyer with fully executed copies of the disclosure and maintains a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer’s signature, the licensee obtains other documentation establishing delivery of the disclosure and maintains the written documentation in the transaction file.

c. If the transaction closes, the listing broker maintains the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement is delivered to the buyer(s) or the buyer’s agent in accordance with Iowa Code section 558A.2(2). If there is more than one buyer, any one buyer or buyer’s agent may accept delivery of the executed statement.

14.1(3) Licensee responsibilities to buyer. A licensee representing a buyer in a transfer notifies the buyer of the seller’s obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when mandated, the licensee notifies the buyer that the buyer may revoke or withdraw the offer and follows Iowa Code section 558A.2(2).

b. Reserved.

14.1(4) Inclusion of written reports. A written report or opinion prepared by a person qualified to render the report or opinion may be included in a disclosure statement. A report may be prepared by those authorized by Iowa Code section 558A.4(1) “b.”

a. The seller identifies the necessary disclosure items which are to be satisfied by the report.

b. If the report is prepared for the specific purpose of satisfying the disclosure criteria, the preparer of the report follows Iowa Code section 558A.4(1) “b.”

c. A licensee representing a seller provides the seller with information on the proper use of reports if reports are used as part of the disclosure statement.

14.1(5) Amended disclosure statement. A licensee’s obligations with respect to any amended disclosure statement are the same as the licensee’s obligations with respect to the original disclosure statement. A disclosure statement is amended if authorized by Iowa Code section 558A.3(2).

14.1(6) Acknowledgment of receipt of disclosure statement by electronic means. Whether or not a licensee assists in a real estate transaction, electronic delivery of any property disclosure statement mandated by Iowa Code chapter 558A is not deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee’s agent. Acceptable acknowledgment of receipt includes return of a fully executed copy of the property disclosure statement to the transferor by the transferee or the transferee’s agent; or a letter, electronic mail, text message, or other written correspondence to the transferor from the transferee or the transferee’s agent acknowledging receipt. A computer-generated read receipt, facsimile delivery confirmation, or other automated return message is not deemed acknowledgment of receipt for purposes of this rule.

14.1(7) Minimum disclosure statement contents for all transfers. All property disclosure statements, whether or not a licensee assists in the transaction, contain at a minimum the information mandated by the

following sample statement. No particular language is necessary in the disclosure statement provided that the necessary disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address: _____

PURPOSE:

Use this statement to disclose information as mandated by Iowa Code chapter 558A. This law obligates certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) completes this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable (N/A);
4. Please provide information in good faith and make a reasonable effort to ascertain the necessary information. If the necessary information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** are identified as **approximations (AP)**;
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

1. Basement/Foundation: Any known water or other problems? Yes [] No []
2. Roof: Any known problems? Yes [] No []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ____/____/____
3. Well and Pump: Any known problems? Yes [] No []
If N/A check here []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ____/____/____
Any known water tests? Yes [] No []
If yes, date of last report: ____/____/____
and results: _____
4. Septic Tanks/Drain Fields: Any known problems? Yes [] No []
If N/A check here []
Location of tank: _____
Date tank last cleaned: ____/____/____
5. Sewer System: Any known problems? Yes [] No []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ____/____/____
6. Heating System(s): Any known problems? Yes [] No []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ____/____/____
7. Central Cooling System(s): Any known problems? Yes [] No []
Any known repairs? Yes [] No []

- If yes, date of repairs/replacement: ____/____/____
8. Plumbing System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
9. Electrical System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes [] No []
 If yes, date(s) of treatment: ____/____/____
 Any known structural damage? Yes [] No []
 If yes, date(s) of repairs/replacement: ____/____/____
11. Asbestos: Any known to be present in the structure? Yes [] No []
 If yes, explain: _____
12. Radon: Any known tests for the presence of radon gas? Yes [] No []
 If yes, date of last report: ____/____/____
 and results: _____
13. Lead-Based Paint: Any known to be present in the structure? Yes [] No []
14. Flood Plain: Do you know if the property is located in a flood plain? Yes [] No []
 If yes, what is the flood plain designation? _____
15. Zoning: Do you know the zoning classification of the property? Yes [] No []
 If yes, what is the zoning classification? _____
16. Covenants: Is the property subject to restrictive covenants? Yes [] No []
 If yes, attach a copy or state where a true, current copy of the covenants can be obtained:

17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [] No []
 Any known "common areas" such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [] No []
18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [] No []
19. Structural Damage: Any known structural damage? Yes [] No []

You need to explain any "YES" response(s) above. Use the back of this statement or additional sheets as necessary: _____

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller(s) acknowledges that Buyer(s) be provided with the “Iowa Radon Home-Buyers and Sellers Fact Sheet” prepared by the Iowa Department of Health and Human Services.

Seller_____ Seller_____
Date ___/___/___ Date ___/___/___

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.

Buyer(s) acknowledges receipt of the “Iowa Radon Home-Buyers and Sellers Fact Sheet” prepared by the Iowa Department of Health and Human Services.

Buyer_____ Buyer_____
Date ___/___/___ Date ___/___/___

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.
[ARC 7776C, IAB 4/17/24, effective 5/22/24]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 11/7/05, Notice 8/31/05—published 12/7/05, effective 1/11/06]

[Editorial change: IAC Supplement 9/10/08]

[Filed ARC 7950B (Notice ARC 7639B, IAB 3/25/09), IAB 7/15/09, effective 8/19/09]

[Filed ARC 8285B (Notice ARC 8057B, IAB 8/26/09), IAB 11/18/09, effective 12/23/09]

[Filed ARC 3722C (Notice ARC 3564C, IAB 1/17/18), IAB 3/28/18, effective 5/2/18]

[Filed ARC 7776C (Notice ARC 7455C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 15
PROPERTY MANAGEMENT

[Prior to 9/4/02, see 193E—Ch 1]

193E—15.1(543B) Property management. A licensee cannot rent or lease real estate, offer to rent or lease real estate, negotiate or offer or agree to negotiate the rental or leasing of real estate, list or offer to list real estate for the leasing or rental of real estate, assist or direct in the negotiation of any transaction calculated or intended to result in the leasing or rental of real estate or show property to prospective renters or lessees of real estate unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

15.1(1) Every property management agreement or other written authorization between a broker and an owner of real estate includes, but is not limited to, the following:

- a.* Proper identification of the property to be managed.
- b.* All terms and conditions under which the property is to be managed and the powers and authority given to the broker by the owner.
- c.* Terms and conditions under which the broker will remit property income to the owner and when the broker will provide periodic written statements of property income and expenses to the owner, which is done no less than annually.
- d.* Which payments of property-related expenses are to be made by the broker to third parties.
- e.* Amount of fee or commission to be paid to the broker and when it will be paid.
- f.* Amount of security deposits and prepaid rents to be held by the broker or the owner.
- g.* Effective date of the agreement.
- h.* Terms and conditions for termination of the property management agreement by the broker or the owner of the property.
- i.* Signatures of the broker and owner or the owner's authorized agent.

15.1(2) The licensee gives the owner or the owner's authorized agent a legible copy of every written property management agreement or written authorization at the time the signature of the owner is obtained, and the licensee's broker retains a copy.

15.1(3) A licensee who is managing the leasing or rental of real estate may act as an agent in the sale or exchange of that real estate only if the property management agreement clearly grants the specific authorization and contains all of the necessary elements for a listing as set forth in rule 193E—11.1(543B) or if a separate listing agreement is secured.

15.1(4) The broker deposits all funds received on behalf of the owner, by no later than five banking days after receipt of the funds, into a trust account maintained by the broker, under the broker's control and in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

15.1(5) If the property management agreement is terminated or transferred for any reason, the property manager:

- a.* Terminates the management activities of the property as provided in the agreement and except as otherwise provided by the agreement;
- b.* Notifies the owner and any tenants of the property of the termination;
- c.* Provides the owner, not later than 30 days after the effective date of the termination, with any unobligated funds due the owner under the agreement and not later than 60 days after the effective date of the termination, provides the owner with a final accounting of the owner's ledger account, the amount of any obligated funds held in the property manager's client trust account under the agreement, a statement that explains why obligated funds are being held by the property manager and a statement of when and to whom the obligated funds will be disbursed by the property manager;
- d.* May disburse any unobligated funds only to the owner or, with the proper written authorization of the owner, to another property manager designated in writing by the owner;
- e.* Immediately notifies each tenant that the conditionally refundable deposit will be transferred to the owner or to a new property manager and, at the same time, provides the name and address of the owner or the new property manager to whom these deposits will be transferred.

15.1(6) If any of the unobligated funds held by the property manager under the terminated agreement represent tenants' conditionally refundable deposits received from current tenants, the property manager:

a. Cannot expend any tenant's conditionally refundable deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreements, and

b. If any tenant terminates tenancy at the same time as or prior to the termination of the management of the rented or leased property, the licensee completes any final accounting, inspection or other procedure obligated by the tenant's rental or lease agreement, by the Uniform Residential Landlord and Tenant Law, Mobile Home Parks Residential Landlord and Tenant Law, or by the property management agreement, unless the owner directs otherwise in writing.

15.1(7) Financial dealings under a property management agreement are conducted subject to the following:

a. A check is not issued or presented for payment prior to sufficient funds being in the owner's account to cover the check.

b. Transfers of funds between two or more accounts maintained for the same owner may be made if proper entries are made on the ledgers of the accounts affected and the broker maintains the specific written authorization of the owner.

Transfers of funds between an individual owner's accounts are done by writing billings and receipts debiting and crediting the appropriate accounts. Transfers are not done by ledger entries alone.

c. The broker cannot withdraw, pay or transfer money from the owner's account in excess of the remaining credit balance at the time of withdrawal, payment or transfer.

d. Management fees are withdrawn from the owner's account at least once a month unless the agreement provides otherwise. The fees are identified by property name or account number for which the fees were earned and withdrawn by the broker and deposited into the broker's business operating account. Fees are not paid directly from the owner's trust account to the broker.

e. Conditionally refundable deposits are placed in a trust account until refund is made or until all or a portion of the deposit accrues to the owner under the tenant's agreement.

If refundable deposits are not maintained in a separate trust account, the running balance of the account does not, at any time, go below the total of the refundable deposits being held in the account.

f. The total of balances of the individual property management accounts of the broker equals the balance shown on the journal, the account ledgers, and the reconciled bank balance of the broker.

All accounts and records are in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

g. Except as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), if refundable deposits and funds are received from others pursuant to a property management agreement, deposited in an interest-bearing trust account, and there is not a separate written agreement to pay the interest earned to the owner or tenant, the interest is paid to the state pursuant to Iowa Code section 543B.46. The property manager does not receive or benefit from the interest.

The written approval agreement is signed by each party having an interest in the funds, fully disclosing how the funds are to be handled by the property manager, who will benefit from the interest earnings, how and when interest earnings will be paid and any limitations that may be provided for on the withdrawal of the funds deposited in the interest-bearing trust account.

This rule is intended to implement Iowa Code chapters 17A, 272C, and 543B.

[ARC 777C, IAB 4/17/24, effective 5/22/24]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 777C (Notice ARC 7456C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 16
PRELICENSE EDUCATION AND CONTINUING EDUCATION
[Prior to 9/4/02, see 193E—Ch 3]

193E—16.1(543B) Definitions. For the purpose of these rules, the following definitions apply:

“*Affirmative marketing*” means the entire scope of social laws and ethics that are concerned with civil rights as they apply especially to housing and to the activities of real estate licensees.

“*Approved program, course, or activity*” means a continuing education program, course, or activity meeting the standards set forth in these rules which has received advance approval by the commission pursuant to these rules.

“*Approved provider*” means a person or an organization that has been approved by the commission to conduct continuing education activities pursuant to these rules.

“*Broker*” means any person holding an Iowa real estate broker license as defined in Iowa Code section 543B.3.

“*Commission*” means the real estate commission.

“*Continuing education*” means education needed as a condition to license renewal.

“*Credit hour*” means the value assigned by the commission to a prelicense or continuing education program, course, or activity.

“*Distance learning*” or “*online learning*” means a planned teaching/learning experience with a geographic separation of student and instructor that utilizes a wide spectrum of technology-based systems, including computer-based instruction, to reach learners at a distance. Home-study courses that include written materials, exercises and tests mailed to the provider for review are included in this definition.

“*Guest speaker*” means an individual who teaches a real estate education course on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter the individual proposes to teach.

“*Hour*” means 50 minutes of instruction.

“*Inactive license*” means the same as defined in Iowa Code section 543B.5(12).

“*Licensee*” means the same as defined in Iowa Code section 543B.5(13).

“*Live instruction*” means an educational program delivered in a traditional classroom setting or by electronic means whereby the instructor and student have real-time visual and audio contact to carry out their essential tasks.

“*Prelicense course*” means instruction consisting of one or more courses meeting the criteria of Iowa Code section 543B.15.

“*Salesperson*” means any person holding an Iowa real estate salesperson license as defined in Iowa Code section 543B.5(3).

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.2(543B) Salesperson prelicense criteria.

16.2(1) Mandatory course of study.

a. The mandatory course of study for the salesperson licensing examination consists of 60 live instruction or distance/online learning hours of real estate principles and practices to comply with the criteria of Iowa Code section 543B.15. The curriculum includes, but is not limited to, the following subjects:

- Introduction to Real Estate and Iowa License Law 12 hours
- Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing 12 hours
- Contracts, Agency and Antitrust 12 hours
- Valuation, Finance and Real Estate Math 12 hours
- Property Management/Leasing, Fair Housing, Environmental Risks
and Health Issues 12 hours

b. At the time of submission of an application, an applicant applying for an original salesperson license also provides evidence of the following live instruction courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices.

All the necessary education is completed during the 12 months prior to the date the application is postmarked or received.

16.2(2) *Completion of prelicense education.* Successful completion of the salesperson prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

16.2(3) *Substitution of courses.* Written requests for substitution of the salesperson prelicense education courses specified in subrule 16.2(1) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in subrule 16.2(1). Courses completed more than 12 months prior to commission consideration for approval do not qualify for substitution.

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.3(543B) Broker prelicense education criteria.

16.3(1) *Mandatory course of study.* The mandatory course of study to take the broker examination consists of Iowa Code section 543B.15(7). Approved courses include the following subjects:

Contract Law and Contract Writing	6 hours
Iowa Real Estate Trust Accounts	6 hours
Principles of Appraising and Market Analysis	6 hours
Real Estate Law and Agency Law	6 hours
Real Estate Finance	6 hours
Federal and State Laws Affecting Iowa Practice	6 hours
Real Estate Office Organization, Administration and Human Resources	12 hours
Real Estate Technology and Data Security	6 hours
Ethics and Safety Issues for Brokers	6 hours

16.3(2) *Completion of prelicense education.* Successful completion of the broker prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

16.3(3) *Substitution of courses.* Written requests for substitution of the broker prelicense education courses specified in subrule 16.3(1) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in subrule 16.3(1). Any course completed more than 24 months prior to commission consideration for approval does not qualify for substitution.

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.4(543B) Continuing education criteria.

16.4(1) All individual real estate licenses are issued for three-year terms, counting the remaining portion of the year of issue as a full year. All individual licenses expire on December 31 of the third year of the license term.

16.4(2) As a criteria of license renewal in an active status, each real estate licensee completes a minimum of 36 hours of approved programs, courses or activities. The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license renewal term. Approved courses in the following subjects are completed to renew a license to active status:

Law Update	8 hours
Ethics	4 hours
Electives	24 hours

16.4(3) During each three-year renewal period a course may be taken for credit only once. A course may be repeated for credit only if the course numbers and instructors are different.

16.4(4) A maximum of 24 hours of continuing education may be taken by distance/online learning each three-year renewal period.

16.4(5) A licensee unable to attend educational offerings because of a disability may make a written request to the commission setting forth an explanation and verification of the disability. Licensees

making requests need to meet the definition of a person with a disability found in the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008 (ADAAA).

16.4(6) In addition to courses approved directly by the commission, the following will be deemed acceptable as continuing education:

a. Credits earned in a state which has a continuing education criteria for renewal of a license if the course is approved by the real estate licensing board of that state for credit for renewal. However, state-specific courses are not acceptable.

b. Courses sponsored by the National Association of Realtors (NAR) or its affiliates.
[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.5(543B) Continuing education records. Applicants for license renewal pursuant to Iowa Code section 543B.15 certify that the number of hours of continuing education needed to renew a license was completed as described in rule 193E—16.4(543B).

16.5(1) The commission will verify by random audit or on a test basis the education claimed by the licensee. It is the responsibility of the licensee to maintain records that support the continuing education claimed and the validity of the credits. Documentation is retained by the licensee for a period of three years after the effective date of the license renewal.

16.5(2) It will not be acceptable for a licensee to include on a renewal application continuing education which has not yet been completed, is outside the renewal period, or for which prior approval or postapproval has not been previously granted.

16.5(3) Failure to provide necessary evidence of completion of claimed education within 30 days of the written notice from the commission results in the licensee's being placed on inactive status. Prior to activating a license that has been placed on inactive status pursuant to this provision, the licensee submits to the commission satisfactory evidence that all necessary continuing education has been completed.

16.5(4) Filing a false affirmation is prima facie evidence of a violation of Iowa Code section 543B.29(1).

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.6(543B) Reactivating an inactive license. A license may be renewed without the necessary continuing education, but it is only renewed to an inactive status. Prior to reactivating a license that has been issued inactive due to failure to submit evidence of continuing education, the licensee submits evidence that all deficient continuing education hours have been completed. The maximum continuing education hours cannot exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.7(543B) Full-time attendance. Successful completion of continuing education needs full-time attendance throughout the program, course or activity. A student who arrives late, leaves during class or leaves early does not receive a certificate.

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.8(543B) Education criteria for out-of-state licensees. Subrule 16.4(2) applies to every Iowa real estate licensee unless exempted by Iowa Code section 272C.2(5).

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.9(543B) Examination as a substitute for continuing education.

16.9(1) A salesperson may satisfy all continuing education deficiencies by taking and passing the real estate salesperson examination. An authorization letter is obtained from the commission prior to scheduling the examination with the examination administrator.

a. If the salesperson takes and passes the salesperson examination within the six months immediately preceding the expiration of the license, the salesperson examination score report may be substituted for the necessary hours of continuing education credit for the current license term and will satisfy all previous deficiencies.

b. A salesperson who is otherwise qualified to be a broker and who passes the broker licensing examination is not needed to furnish evidence of credit for continuing education earned as a salesperson.

16.9(2) A broker may satisfy all continuing education deficiencies by taking and passing the real estate broker examination. An authorization letter is obtained from the commission prior to scheduling the examination with the examination administrator. If the broker takes and passes the broker examination within the six months immediately preceding the expiration of the license, the broker examination score report may be substituted for the necessary hours of continuing education credits for the current license term and will satisfy all previous deficiencies.

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.10(543B) Use of prelicense courses as continuing education.

16.10(1) Salespersons and brokers may take up to 24 hours of the salesperson prelicense courses specified in subrule 16.2(1) as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education criteria of the first renewal term.

16.10(2) Broker prelicense courses taken by a salesperson may be applied as continuing education for renewal of the salesperson license and also may be used as prelicense credit to qualify for a broker license.

16.10(3) A broker may take broker prelicense courses as continuing education, but a newly licensed broker cannot use as continuing education credits from the prelicense courses taken to qualify for the broker license.

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

193E—16.11(543B) Requests for prior approval or postapproval of a course(s). A licensee seeking credit for attendance and participation in a course, program, or other continuing education activity that is to be conducted by a school not otherwise approved by the commission may apply for approval to the commission at least 21 days in advance of the beginning of the activity. The commission approves or denies the application in writing within 14 days of receipt of the application.

16.11(1) The application for prior approval of a course or an activity includes the following information:

- a.* School or organization or person conducting the activity.
- b.* Location of the activity.
- c.* Title and brief description of the activity or title and course outline.
- d.* Credit hours requested.
- e.* Date of the activity.
- f.* Principal instructor(s).

16.11(2) The application for postapproval of a course or an activity includes the following information:

- a.* School, firm, organization or person conducting the activity.
- b.* Location of the activity.
- c.* Title, description of activity, and course outline.
- d.* Credit hours requested for approval.
- e.* Date of the activity.
- f.* Principal instructor(s).
- g.* Verification of attendance.

[ARC 7778C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C, and 543B.

[Filed 7/22/76, Notice 5/31/76—published 8/9/76, effective 9/13/76]

[Filed 6/8/78, Notice 5/3/78—published 6/28/78, effective 8/2/78]

[Filed 10/10/80, Notice 8/20/80—published 10/29/80, effective 12/3/80]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed emergency 5/2/85—published 5/22/85, effective 5/2/85]

[Filed 8/23/85, Notice 7/3/85—published 9/11/85, effective 10/16/85]

[Filed 3/21/86, Notice 12/18/85—published 4/9/86, effective 5/15/86]
[Filed without Notice 5/30/86—published 6/18/86, effective 7/23/86]
[Filed 5/26/88, Notice 3/9/88—published 6/15/88, effective 7/20/88]
[Filed 12/22/89, Notice 10/18/89—published 1/10/90, effective 2/14/90]
[Filed 6/21/91, Notice 5/15/91—published 7/10/91, effective 8/14/91]¹
[Filed 12/4/92, Notice 9/30/92—published 12/23/92, effective 1/27/93]
[Filed 9/23/93, Notices 5/26/93, 8/4/93—published 10/13/93, effective 12/1/93]
[Filed 7/29/94, Notice 5/25/94—published 8/17/94, effective 9/21/94]
[Filed 1/12/95, Notice 11/23/94—published 2/1/95, effective 3/8/95][◇]
[Filed 6/14/96, Notice 4/10/96—published 7/3/96, effective 8/7/96]
[Filed 6/13/97, Notice 4/9/97—published 7/2/97, effective 8/6/97]
[Filed 9/29/99, Notice 8/11/99—published 10/20/99, effective 11/24/99]
[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]
[Filed 5/7/04, Notice 2/18/04—published 5/26/04, effective 6/30/04]
[Filed 5/30/07, Notice 4/25/07—published 6/20/07, effective 7/25/07]
[Filed 10/14/08, Notice 7/30/08—published 11/5/08, effective 12/10/08]
[Filed 12/22/08, Notice 8/27/08—published 1/14/09, effective 2/18/09]
[Filed ARC 7972B (Notice ARC 7638B, IAB 3/25/09), IAB 7/29/09, effective 9/2/09]
[Filed ARC 3500C (Notice ARC 3154C, IAB 7/5/17), IAB 12/6/17, effective 1/10/18]
[Filed ARC 6040C (Notice ARC 5736C, IAB 6/30/21), IAB 11/17/21, effective 12/22/21]
[Filed ARC 7778C (Notice ARC 7457C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

¹ Effective date (8/14/91) of amendments to 3.1, unnumbered paragraphs 3, 8; 3.2(1-4); 3.3(2-9); 3.4(1); 3.4(2)“o”; 3.4(5)“h”; and rules 3.5 and 3.6 delayed 70 days by the Administrative Rules Review Committee. Delay lifted 8/21/91, effective 8/22/91.

CHAPTER 17
APPROVAL OF SCHOOLS, COURSES AND INSTRUCTORS
[Prior to 9/4/02, see 193E—3.5(543B)]

193E—17.1(543B) Administrative criteria for schools, courses and instructors. All schools, courses and instructors of prelicense and continuing education receive advance approval of the commission.

17.1(1) Schools, courses and instructors are approved on forms prescribed by the commission for 24-month periods, including the month of approval. Approval is obtained for each course that an instructor proposes to teach.

17.1(2) A course outline and all necessary forms are submitted for approval at least 30 days prior to the first offering of the program, course or activity.

17.1(3) Evidence of compliance with or exemption from Iowa Code sections 714.18 through 714.25 is furnished to the commission.

17.1(4) Potential participants of all approved courses are clearly informed of the hours to be credited, policies concerning registration, payment of fees, refunds and attendance criteria.

17.1(5) School staff and instructors allow access to any classes conducted to any member of the commission or its duly appointed representatives.

17.1(6) No part of any approved course is used to advertise or solicit orally or in writing any product or service.

17.1(7) The school shows that procedures are in place to ensure that the student who completes an approved course is the student who enrolled in the course.

17.1(8) School staff and instructors are available during normal business hours to answer student questions and provide assistance as necessary.

17.1(9) The commission may at any time evaluate an approved school or instructor. If the commission finds there is a basis for consideration of revocation of the approval of the school or the instructor, the commission gives notice by ordinary mail or email to the coordinator of that school or to the instructor of a hearing on the possible revocation at least 20 days prior to the hearing.

17.1(10) The commission may deny or withdraw approval of a program, course, or activity, but the decision to deny or withdraw approval may be appealed within 20 days of the date of mailing the notice of denial or withdrawal.

17.1(11) Each application for approval designates an individual as coordinator for the school in responsible charge of its operation who is also the contact for the commission. The coordinator is responsible for complying with the commission's rules relating to schools and for submitting reports and information if needed by the commission.

17.1(12) An approved school cannot apply to itself either as part of its name or in any other manner the designation of "college" or "university" in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed for colleges and universities unless the school, in fact, meets those standards and qualifications.

17.1(13) Advertising and prospectus information. No approved school provides any information to the public or to prospective students that is misleading.

17.1(14) Maximum hours of instruction. There is no more than eight classroom hours in any single day of instruction.

17.1(15) Each approved school establishes and maintains for each student a complete, accurate and detailed record of instruction undertaken and satisfactorily completed in the areas of study prescribed by these rules. The records are maintained for a period of not less than five years. The commission assigns a number to each approved school and assigns a number to each approved program, course or activity. The approved school includes these reference numbers in correspondence with the commission and includes these numbers on certificates of attendance issued by the approved school.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.2(543B) Certificates of attendance.

17.2(1) Each approved school under rule 193E—17.1(543B) provides an individual certificate of attendance to each licensee upon completion of the program, course, or activity. The certificate contains the following information:

- a. School name and number;
- b. Program, course or activity name and number;
- c. Name and address of licensee;
- d. Date on which the program, course or activity was completed;
- e. Number of approved credit hours;
- f. Instructor's name;
- g. Signature of coordinator or other person authorized by the commission; and
- h. A notation as to whether credit hours are to be used as distance learning or as live instruction.

17.2(2) An attendance certificate is not issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity is completed in its entirety. A student who arrives late, leaves during class or leaves early does not receive an attendance certificate.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.3(543B) Instructors taking license examinations for auditing purposes.

17.3(1) Instructors who take the salesperson or broker examination for auditing purposes first obtain written consent from the commission.

17.3(2) Any instructor who wishes to retake an examination for auditing purposes may be granted permission after 12 months have passed.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.4(543B) Continuing education credit for instructors.

17.4(1) Commission-approved instructors may receive up to six hours of continuing education credit toward renewal of a real estate license for verified attendance at an instructor development workshop approved by the commission. The instructor may use continuing education credit only once in each three-year renewal period.

17.4(2) An instructor may receive continuing education credit for approved education courses that the instructor teaches, but not more than six hours of credit in any three-year license renewal period.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.5(543B) Acceptable course topics.

17.5(1) The commission will consider courses in the following areas to be acceptable for approval:

- a. Real estate ethics;
- b. Legislative issues that influence real estate practice, including both pending and recent legislation;
- c. The administration of licensing provisions of real estate law and rules, including compliance and regulatory practices;
- d. Real estate financing, including mortgages and other financing techniques;
- e. Real estate market analysis and evaluation, including site evaluations, market data, and feasibility studies;
- f. Real estate brokerage administration, including office management, trust accounts, and employee contracts;
- g. Real estate mathematics;
- h. Real property management, including leasing agreements, accounting procedures, and management contracts;
- i. Real property exchange;
- j. Land use planning and zoning;
- k. Real estate securities and syndications;
- l. Estate building and portfolio management;
- m. Accounting and taxation as applied to real property;
- n. Land development;

- o.* Market analysis;
- p.* Real estate market procedures;
- q.* Technology and the practice of real estate;
- r.* Safety;
- s.* Fair housing; and
- t.* Diversity, equity and inclusion.

17.5(2) Other course topics. A course topic may be approved if it is determined that it includes such facts, concepts and current information about which licensees are knowledgeable to conduct real estate negotiations and transactions and better protect client, customer and public interest. The same criteria will be used to evaluate courses that do not otherwise qualify under rule 193E—17.5(543B).

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.6(543B) Nonqualifying courses. The following course offerings do not qualify as continuing education:

17.6(1) Courses of instruction designed to prepare a student for passing the real estate salesperson examination;

17.6(2) Sales promotion or other meetings held in conjunction with a licensee's general business;

17.6(3) A course certified by the use of a challenge examination. All students complete the necessary number of classroom hours to receive certification;

17.6(4) Meetings which are a normal part of in-house staff or employee training;

17.6(5) Orientation courses for licensees, such as those offered through local real estate boards.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.7(543B) Standards for approval of courses of instruction. The commission may approve live classroom instruction, distance education programs and paper and pencil home-study courses, subject to the following conditions:

17.7(1) The course pertains to real estate topics that are integrally related to the real estate industry; and

17.7(2) The course allows the participants to achieve a high level of competence in serving the objectives of consumers who engage the services of licensees; and

17.7(3) The course qualifies for at least one credit hour.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.8(543B) Responsibilities of instructors and course developers.

17.8(1) Instructors are competent in the subject matter and skilled in the use of appropriate teaching methods that have been proven effective through educational research and development.

17.8(2) Course content and materials are accurate and consistent with currently accepted standards relating to the program's subject matter.

17.8(3) Instructor and student materials are updated no later than 30 days after the effective date of a change in standards, laws or rules. Course content will not be considered current and up-to-date unless the new standards have been incorporated into the course or the instructor informs the participants of the new standards.

17.8(4) Instructors attend workshops or instructional programs, as reasonably requested by the commission, to ensure that effective teaching techniques are used and current, relevant and accurate information is taught.

17.8(5) All courses have an appropriate means of written evaluation by the participants. Evaluations include but are not limited to relevance of material, effectiveness of presentation and course content.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.9(543B) Standards for approval of classroom courses.

17.9(1) The commission may approve live classroom courses, subject to the following criteria.

17.9(2) The course application is accompanied by a comprehensive course outline that includes:

- a.* Description of course.

- b.* Purpose of course.
- c.* Level of difficulty.
- d.* Detailed learning objectives for each major topic that specify the level of knowledge or competency the student should demonstrate upon completing the course.
- e.* Description of the instructional methods utilized to accomplish the learning objectives.
- f.* Copies of all instructor and student course materials.
- g.* Course examination(s) or the diagnostic assessment method(s) utilized to achieve the course learning objectives, when applicable.
- h.* A description of the plan in place to periodically review course material with regard to changing federal and state statutes.
- i.* A statement of any attendance make-up policy that the school has in place.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.10(543B) Standards for approval of distance learning courses. The commission may approve distance learning courses, subject to the following criteria:

17.10(1) The provider's purpose or mission statement is available to the public.

17.10(2) The course outline includes clearly stated learning objectives and desired student competencies for each module of instruction and a description of how the program promotes interaction between the learner and the program.

17.10(3) The course content is accurate and up-to-date. The provider describes the plan in place to periodically review course material with regard to changing federal and state statutes.

17.10(4) The course is designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.

a. Students completing distance learning continuing education complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

b. A passing score of 80 percent is needed for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.10(5) The provider shows that qualified individuals are involved in the design of the course.

17.10(6) The provider lists individuals who provide technical support to students and state the specific times when support is available.

17.10(7) A manual is provided to each registered student. It includes, but is not limited to, faculty contact information, student assignments and course criteria, broadcast schedules, testing information, passing scores, resource information, fee schedule and refund policy.

17.10(8) The provider retains a statement signed by the student that affirms that the student completed the necessary work and examinations.

17.10(9) The provider states in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

17.10(10) Courses submitted for approval are sufficient in scope and content to justify the hours requested by the provider.

17.10(11) Courses that have obtained approval from the Association of Real Estate License Law Officials (ARELLO) are automatically approved in Iowa.

17.10(12) All computer-based continuing education and prelicense courses are completed within six months of the date of purchase.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.11(543B) Standards for approval of paper and pencil home-study courses. The commission may approve paper and pencil home-study courses, subject to the following criteria:

17.11(1) Courses are arranged in chapter format and include a table of contents.

17.11(2) Overview statements that preview the content of the chapter are included for each chapter.

17.11(3) Courses are designed to ensure that student progress is evaluated at appropriate intervals. The assessment process measures what each student has learned and not learned at regular intervals

throughout each module of the course. The student completes and returns quizzes to the provider to receive credit for the course.

17.11(4) Students completing paper and pencil home-study continuing education complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

17.11(5) A passing score of 80 percent is needed for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.11(6) A licensee has six months from the date of purchase to complete all quizzes and assignments and to pass the final examination.

17.11(7) The provider includes information that clearly informs the licensee of the course completion deadline, passing score needed, chapter quiz completion criteria and any other relevant information regarding the course.

17.11(8) The provider states in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.

17.11(9) The provider retains a statement signed by the student that affirms that the student completed the necessary work and examinations.

17.11(10) The provider is available to answer student questions or provide assistance as necessary during normal business hours.

17.11(11) Courses submitted for approval are sufficient in scope and content to justify the hours requested by the provider.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

193E—17.12(543B) Qualifying as an instructor.

17.12(1) Individuals may be approved to teach prelicense and continuing education when they have shown proof of attendance of six hours at an instructor development workshop approved by the commission within 12 months preceding approval and have met the instructor qualification criteria.

17.12(2) Guest speakers and individuals currently certified by a nationally recognized organization, such as a DREI, that has similar instructor standards are exempt, with prior approval of the commission, from the instructor qualification criteria and the instructor development workshop criteria.

17.12(3) An applicant may be approved as an instructor when it is determined that the applicant evidences the ability to teach and communicate and possesses in-depth knowledge of the subject matter to be taught.

a. The applicant demonstrates the ability to teach by meeting at least one of the following criteria:

- (1) Holds a bachelor's degree or higher in education from an accredited college (copy(ies) of transcript(s) to be attached); or
- (2) Holds a current teaching credential or certificate in any field (copy to be attached); or
- (3) Holds a certificate of completion from a real estate instructor institute, workshop or school approved by the real estate commission and has experience in the area of instruction (specific teaching experiences to be detailed); or
- (4) Holds a full-time current appointment to the faculty of an accredited college; or
- (5) Holds a current teaching designation from an organization approved by the real estate commission (evidence to be attached).

b. The applicant demonstrates in-depth knowledge of the subject matter by meeting at least one of the following criteria:

(1) Holds a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the applicant proposes to teach, such as business, economics, accounting, real estate or finance (copy of transcript to be attached); or

(2) Holds a bachelor's degree or higher from an accredited college and five years of real estate experience directly related to the subject matter of the course the applicant proposes to teach (copy of transcript to be attached and documentation to explain how applicant's experience is directly related to the subject matter the applicant proposes to teach); or

(3) Be a licensed attorney in practice for at least three years in an area directly related to the subject matter of the course the applicant proposes to teach; or

(4) Be a highly qualified professional with a generally recognized professional designation such as, but not limited to, FLI, MAI, SIOR, SREA, CRB, CRS, CPM, but not including GRI, and two years of education from a postsecondary institution (evidence of both to be attached); or

(5) Have extensive instructional background in real estate education and experience in real estate as evidenced by a valid broker's license or five years of active real estate experience as a salesperson (evidence to be provided). In addition, three recently written letters of recommendation that attest to the applicant's in-depth knowledge combined with the ability to teach and communicate the subject the applicant proposes to teach; or

(6) Other, as the commission may determine.

[ARC 7779C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C, and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 11/18/08, Notice 8/27/08—published 12/17/08, effective 1/21/09]

[Filed 12/22/08, Notice 8/27/08—published 1/14/09, effective 2/18/09]

[Filed ARC 0750C (Notice ARC 0628C, IAB 3/6/13), IAB 5/29/13, effective 7/3/13]

[Filed ARC 3500C (Notice ARC 3154C, IAB 7/5/17), IAB 12/6/17, effective 1/10/18]

[Filed ARC 7779C (Notice ARC 7458C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 18
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

[Prior to 9/4/02, see 193E—Ch 4]

193E—18.1(17A,272C,543B) Disciplinary and investigative authority. The commission is empowered to administer Iowa Code chapters 17A, 272C, and 543B and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals for the performance of real estate services within this state or for clients in this state. To perform these functions, the commission is broadly vested with authority, pursuant to Iowa Code sections 17A.13, 272C.3 through 272C.6, 272C.10, 543B.9, 543B.29, 543B.34 to 543B.41, and 543B.61 to review and investigate alleged acts or omissions of licensees, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.2(17A,272C,543B) Grounds for discipline. The commission may initiate disciplinary action against a licensee on any of the following grounds:

1. All grounds set forth in Iowa Code sections 543B.29, 543B.34 and 543B.61.
2. A violation of the rules of professional and business conduct described in 193E—Chapters 6 through 8, 10 through 15, and 19.
3. Failure to comply with an order of the commission imposing discipline.
4. Violation of Iowa Code sections 272C.3(2) and 272C.10.
5. Continuing to practice real estate with an expired or inactive license, or without satisfying the continuing education mandated by 193E—Chapter 16 or the errors and omissions insurance mandated by 193E—Chapter 19.
6. Knowingly aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is a ground for discipline under this rule or otherwise knowingly aiding or abetting the unlicensed practice of real estate in Iowa.
7. Failure to fully cooperate with a licensee disciplinary investigation, including failure to respond to a commission inquiry within 14 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the commission office.
8. A violation of one or more of the acts or omissions upon which civil penalties may be imposed, as described in subrule 18.14(5).

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.3(17A,272C,543B) Initiation of disciplinary investigations. The commission may initiate a licensee disciplinary investigation upon the commission's receipt of information suggesting that a licensee may have violated a law or rule enforced by the commission which, if true, would constitute a ground for licensee discipline.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.4(272C,543B) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. News articles or other media sources.
2. Reports filed with the commission by the commissioner of insurance pursuant to Iowa Code section 272C.4(9).
3. Complaints filed with the commission by any member of the public.
4. License applications or other documents submitted to the commission.
5. Reports to the commission from any regulatory or law enforcement agency from any jurisdiction.
6. Commission audits of licensee compliance, such as those involving continuing education, trust accounts, or errors and omissions insurance.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.5(17A,272C,543B) Conflict of interest. If the subject of a complaint is a member of the commission, or if a member of the commission has a conflict of interest in any disciplinary matter before the commission, that member abstains from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.6(272C,543B) Complaints. Written complaints may be submitted to the commission office by mail, email, online via the commission's website, or personal delivery by any member of the public with knowledge of possible law or rule violations by licensees. Timely filing is encouraged to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may become substantially altered during a period of delay.

18.6(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the commission which are available from the commission office and on the commission's website. Written complaints, whether submitted on a commission complaint form or in other written medium, contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrates that the respondent has violated or is violating laws or rules enforced by the commission.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.
- g. The address of the property involved.

18.6(2) Immunity. A person is not civilly liable for filing a complaint unless such act is done with malice as provided by Iowa Code section 272C.8(1) "a." Employees cannot be discriminated against as a result for filing a complaint as provided by Iowa Code section 272C.8(1) "c."

18.6(3) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the commission with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the commission based in whole or in part on information provided by the complainant.

18.6(4) Role of the commission. The commission does not act as an arbiter of disputes between private parties, nor does the commission initiate disciplinary proceedings to advance the private interests of any person or party. The role of the commission in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The commission possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

18.6(5) Initial complaint screening. All written complaints received by the commission are initially screened by the commission's administrator or designated staff to determine whether the allegations of the complaint fall within the commission's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the commission's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous may be closed by the commission administrator or may be referred by the commission administrator to the commission for closure at the next scheduled commission meeting. All other complaints are referred by the commission administrator to the commission's disciplinary committee for committee review as described in rule 193E—18.9(17A,272C,543B). If a complainant objects in writing to the closure of the complaint by the commission administrator, the administrator will refer the objection to the disciplinary committee or commission for reconsideration.

18.6(6) *Withdrawal or amendment.* A complaint may be amended or withdrawn at any time prior to official notification of the respondent and thereafter at the sole discretion of the commission. The commission may choose to pursue a matter even after a complaint has been withdrawn.
[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.7(272C,543B) Case numbers. Whether based on a written complaint received by the commission or a complaint initiated by the commission, all complaint files are tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second three digits representing the order in which the case file was opened (e.g., 01-001, 01-002, 01-003). The commission's administrator maintains a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the commission regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.
[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.8(272C,543B) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the commission is privileged and confidential pursuant to Iowa Code section 272C.6(4) and as such is not subject to discovery, subpoena, or other means of legal compulsion for release to any person except as provided in Iowa Code section 272C.6.
[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.9(17A,272C,543B) Investigation procedures.

18.9(1) *Disciplinary committee.* The commission chair may appoint two members of the commission to serve on a commission disciplinary committee. The chair may appoint a standing committee or may appoint different members to serve on the committee on an as-needed basis. The disciplinary committee is a purely advisory body which reviews complaint files referred by the commission's administrator, generally supervises the investigation of complaints, and makes recommendations to the full commission on the disposition of complaints. Except as provided by rule 193E—18.10(17A,272C,543B), members of the committee do not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the commission.

18.9(2) *Committee screening of complaints.* Upon the referral of a complaint from the commission's administrator or from the full commission, the committee determines whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the commission. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee refers the complaint to the full commission with the recommendation that it be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full commission recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

18.9(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193E—18.10(17A,272C,543B) or request commission staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or commission staff presents a report to the committee. The committee reviews the report and determines what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full commission with the recommendation of closure.

c. Determine there is probable cause to believe that a law or rule enforced by the commission has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full commission with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.

d. Determine there is probable cause to believe a disciplinary violation has occurred and either attempt informal settlement, subject to approval by the full commission, or refer the case to the full commission with the recommendation that the commission initiate a disciplinary proceeding (contested case).

e. Stay further action on the complaint if, for instance, there is a pending criminal case or civil litigation and the committee feels it would be in the best interest of the public and respondent to await the final outcome of the litigation. Additionally, the committee may stay further action on a complaint when the respondent's license is expired or revoked.

18.9(4) Subpoena authority. The commission is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding, pursuant to Iowa Code sections 17A.13(1), 272C.6(3) and 543B.36. Commission procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.10(17A,272C,543B) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

18.10(1) An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the commission determines whether probable cause exists to initiate a disciplinary proceeding. Licensees are not obligated to attend an informal discussion. Because disciplinary investigations are confidential, the licensee cannot bring other persons to an informal discussion, but licensees may be represented by legal counsel. When an allegation is made against a firm, the firm may be represented by the designated broker, a managing partner, member or other firm representative.

18.10(2) Unless disqualification is waived by the licensee, commission members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because commission members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all commission members to participate in commission decision making and to receive the advice of staff, licensees who desire to attend an informal discussion therefore waive their right to seek disqualification of a commission member or staff based solely on the commission member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that a participating commission member or staff person is not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

18.10(3) Because an informal discussion constitutes a part of the commission's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the commission in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

18.10(4) The disciplinary committee, subject to commission approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges is filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).
[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.11(17A,272C,543B) Closing complaint files.

18.11(1) *Grounds for closing.* Upon the recommendation of the administrator pursuant to subrule 18.6(5), the recommendation of the disciplinary committee pursuant to rule 193E—18.9(17A,272C,543B), or on its own motion, the commission may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the commission may close a complaint file. The commission will take into consideration the severity of the alleged violation, the sufficiency of the evidence, the possibility that the problem can be better resolved by other means available to the parties, whether the matter has been the subject of a local board proceeding, the clarity of the laws and rules which support the alleged violation, whether the alleged violation is likely to recur, the past record of the licensee, whether the licensee has previously received a cautionary letter concerning the act or omission at issue, and other factors relevant to the specific facts of the complaint. The following nonexclusive list illustrates the grounds upon which the commission may close a complaint file:

- a. The complaint alleges matters outside the commission's jurisdiction.
- b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the commission.
- c. The complaint is frivolous or trivial.
- d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rulemaking.
- e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.
- f. Resources are unavailable or better directed to other complaints or commission initiatives in light of the commission's overall budget and mission.
- g. Extenuating factors exist which weigh against the imposition of public discipline.

18.11(2) *Closing orders.* The commission's administrator may enter an order stating the basis for the commission's decision to close a complaint file. If entered, the order cannot contain the identity of the complainant or the respondent, and cannot disclose confidential complaint or investigative information. If entered, closing orders will be indexed by case number and are a public record pursuant to Iowa Code section 17A.3(1) "d." A copy of the order may be mailed to the complainant, if any, and to the respondent. The commission's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

18.11(3) *Cautionary letters.* When a complaint file is closed, the commission may issue a confidential letter of caution to a licensee which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the commission may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

18.11(4) *Reopening closed complaint files.* The commission may reopen a closed complaint file if, after closure, additional information arises which provides a basis to reassess the merits of the initial complaint.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.12(17A,272C,543B) Initiation of disciplinary proceedings. Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the commission at a public meeting. Commission members who are disqualified are not included in determining whether a quorum exists. When two or more members of the commission are disqualified or otherwise unavailable for any reason,

the administrator may request the special appointment of one or more substitute commission members pursuant to Iowa Code section 17A.11(5).

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.13(17A,272C,543B) Disciplinary contested case procedures. Unless in conflict with a provision of Iowa Code chapter 543B or commission rules in this chapter, all of the procedures set forth in 193—Chapter 7 applies to disciplinary contested cases initiated by the commission.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.14(272C,543B) Disciplinary sanctions.

18.14(1) *Type of sanctions.* The commission has authority to impose, alone or in combination, the following disciplinary sanctions:

- a. Revocation of a license.
- b. Suspension of a license for a period of time or indefinitely.
- c. Nonrenewal of a license.
- d. Ban permanently, until further order of the commission, or for a specified period of time, the engagement in specified procedures, methods or acts.
- e. Probation. As a condition to a period of probation, the commission may impose terms and conditions deemed appropriate by the commission including, but not limited to, substance abuse evaluation and such care and treatment as recommended in the evaluation or otherwise appropriate under the circumstances.
- f. Mandate additional continuing education. The commission may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The commission may also specify whether this continuing education be in addition to the continuing education routinely needed for license renewal. The commission may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
- g. Require reexamination.
- h. Impose a monitoring or supervision arrangement.
- i. Downgrade a license from a broker license to a salesperson license.
- j. Issue a reprimand.
- k. Order a physical or mental examination with periodic reports to the commission, if deemed necessary.
- l. Impose civil penalties, the amount of which is at the discretion of the commission, but does not exceed \$2,500 per violation as authorized by Iowa Code section 543B.48. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193E—18.2(17A,272C,543B) and as listed in subrule 18.14(5).

18.14(2) *Imposing discipline.* Discipline may only be imposed against a licensee by the authorization of Iowa Code section 272C.6(5). When determining the nature and severity of the sanction to be imposed against a particular licensee or groups of licensees, the commission may consider the following factors:

- a. The relative seriousness of the violation as it relates to assuring the citizens of this state professional competency.
- b. The facts of the particular violation.
- c. Number of prior violations.
- d. Seriousness of prior violations.
- e. Whether remedial action has been taken.
- f. The impact of the particular activity upon the public.
- g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee, including those listed in subrule 18.14(6).

18.14(3) *Voluntary surrender.* The commission may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The commission cannot accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a

statement of charges is filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and is published in the same manner as is applicable to any other form of disciplinary order.

18.14(4) Notification criteria. Whenever a broker's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee follows the procedures set forth in rule 193E—7.3(543B). Strict compliance with these procedures is a condition for an application for reinstatement. Whenever a salesperson's or broker associate's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee immediately notifies the licensee's broker, and:

a. Within seven days of receipt of the commission's final order, notifies in writing all clients of the fact that the license has been revoked, suspended, limited, or voluntarily surrendered. Such notice advises the client to immediately contact the broker, unless the limitation at issue would not impact the real estate services provided for that client.

b. Within 30 days of receipt of the commission's final order, the licensee files with the commission copies of the notices sent pursuant to paragraph 18.14(4) "a." Compliance with this criteria is a condition for an application for reinstatement.

18.14(5) Violations for which civil penalties may be imposed. The following is a nonexclusive list of violations upon which civil penalties may be imposed:

- a.* Engaging in activities requiring a license when license is inactive.
- b.* Failing to maintain a place of business.
- c.* Improper care and custody of license:
 - (1) Failing to properly display license(s).
 - (2) Failing to return license in a timely manner (received within 72 hours as provided by 193E—subrules 6.1(1) and 6.1(2)).
 - (3) Failing to notify associate when license is returned.
 - (4) Failing to provide mailing address of associate when license is returned.
- d.* Failing to inform commission and remit necessary fees if appropriate:
 - (1) When changing business address (five working days).
 - (2) When changing status (five working days).
 - (3) When changing form of firm (five working days).
 - (4) When opening a trust account by not filing a consent to examine for the account.
 - (5) When changing residence address or mailing address (five working days).
 - (6) When independently obtained errors and omissions insurance status, coverage or provider changes (five working days).
- e.* Maintaining inadequate transaction records such as:
 - (1) Failing to maintain a general ledger.
 - (2) Failing to maintain individual account ledgers.
 - (3) Failing to retain records on file.
- f.* Improper trust account and closing procedures:
 - (1) Failing to deposit funds as necessary.
 - (2) Disbursing trust funds prior to closing without written authorization.
 - (3) Withholding earnest money unlawfully when the transaction fails to consummate.
 - (4) Failing to obtain escrow agreement for undisbursed funds.
 - (5) Failing to remit and account for interest on closing statements.
 - (6) Computing closing statements improperly.
 - (7) Failing to provide closing statements.
 - (8) Retaining excess personal funds in the trust account.
 - (9) Failing as a salesperson or broker associate to immediately turn funds over to the broker.
 - (10) Failing to deposit trust funds in interest-bearing account in accordance with Iowa Code section 543B.46.
 - (11) Failing to account for and remit to the state accrued interest due in accordance with Iowa Code section 543B.46.
- g.* Failing to immediately present offer.

- h.* Advertising without identifying broker or clearly indicating advertisement is by a licensee.
- i.* Failing to provide information to the commission when requested relative to a complaint (14 calendar days).
- j.* Failing to obtain all signatures needed on contracts or to obtain signatures or initials of all parties to changes in a contract.
- k.* Placing a sign on property without consent, or failure to remove a sign when requested.
- l.* Failing to furnish a progress report when requested.
- m.* Failing by a broker to supervise salespersons or broker associates.
- n.* Failing by a broker associate or salesperson to keep the employing broker informed.
- o.* Issuing an insufficient funds check to the commission for any reason or to anyone else in the individual's capacity as a real estate licensee.
- p.* Issuing an insufficient funds check on the broker's trust account.
- q.* Engaging in conduct which constitutes a barred practice or tying arrangement as banned by these rules.
- r.* Failing to inform clients of real estate brokerage firm of the date the firm will cease to be in business and the effect upon sellers' listing agreements.
- s.* Violating any of the remaining provisions in 193E—Chapters 1 through 20 inclusive that have not heretofore been specified in this rule.

18.14(6) Amount of civil penalties. Factors the commission may consider when determining whether to assess and the amount of civil penalties include:

- a.* Whether other forms of discipline are being imposed for the same violation.
- b.* Whether the amount imposed will be a substantial deterrent to the violation.
- c.* The circumstances leading to the violation.
- d.* The severity of the violation and the risk of harm to the public.
- e.* The economic benefits gained by the licensee as a result of the violation.
- f.* The interest of the public.
- g.* Evidence of reform or remedial action.
- h.* Time elapsed since the violation occurred.
- i.* Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j.* The clarity of the issues involved.
- k.* Whether the violation was willful and intentional.
- l.* Whether the licensee acted in bad faith.
- m.* The extent to which the licensee cooperated with the commission.
- n.* Whether the licensee with a lapsed, inactive, suspended, limited or revoked license improperly engaged in practices which need licensure.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

193E—18.15(17A,272C,543B) Reinstatement. The term “reinstatement” as used in this rule includes both the reinstatement of a suspended license and the issuance of a new license following the revocation, voluntary revocation, or voluntary surrender of a license.

18.15(1) Any person whose license has been revoked or suspended by the commission, or who has voluntarily surrendered a license to the commission or has agreed to a voluntary revocation of a license, may apply to the commission for reinstatement in accordance with the terms of the order of revocation, voluntary surrender, voluntary revocation, or suspension.

18.15(2) Unless otherwise provided by law, if the order of revocation, voluntary revocation, voluntary surrender, or suspension did not establish terms upon which reinstatement might occur, initial application for reinstatement cannot be made until at least two years have elapsed from the date of the order or the date the commission accepted the order.

18.15(3) Following the revocation or surrender of a broker or salesperson license, an applicant for reinstatement, as a condition of reinstatement, start over as an original applicant for a salesperson license,

regardless of the type of license the applicant previously held. The applicant is obligated to satisfy all preconditions for licensure as a salesperson.

18.15(4) In addition to the provisions of rule 193—7.38(17A,272C), the following provisions apply to license reinstatement proceedings:

a. The commission may grant an applicant's request to appear informally before the commission prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, commission members or staff before whom the applicant appears.

b. An order granting an application for reinstatement may impose such terms and conditions as the commission deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193E—18.14(272C,543B).

c. The commission cannot grant an application for reinstatement when the initial order which revoked, suspended or limited the license; denied license renewal; or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the commission's satisfaction that:

- (1) All terms of the sentencing or other criminal order have been fully satisfied;
- (2) The applicant has been released from confinement and any applicable probation or parole; and
- (3) Restitution has been made or is reasonably in the process of being made to any victims of the crime.

[ARC 7780C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 5/6/83, Notice 3/2/83—published 5/25/83, effective 7/1/83]

[Filed 10/7/83, Notice 8/17/83—published 10/26/83, effective 12/2/83]

[Filed 2/10/84, Notice 11/23/83—published 2/29/84, effective 4/4/84]

[Filed emergency 7/19/85—published 8/14/85, effective 7/19/85]

[Filed 5/26/88, Notice 3/9/88—published 6/15/88, effective 7/20/88]

[Filed 6/21/91, Notice 5/15/91—published 7/10/91, effective 8/14/91]¹

[Filed 12/4/92, Notice 9/30/92—published 12/23/92, effective 1/27/93]

[Filed 1/12/95, Notice 11/23/94—published 2/1/95, effective 3/8/95]

[Filed 3/21/96, Notice 1/3/96—published 4/10/96, effective 5/15/96]

[Filed 6/13/97, Notice 4/9/97—published 7/2/97, effective 8/6/97]

[Filed 12/11/98, Notice 9/23/98—published 12/30/98, effective 2/3/99]

[Filed 5/28/99, Notice 3/24/99—published 6/16/99, effective 7/21/99]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 7780C (Notice ARC 7459C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

¹ Effective date (8/14/91) of amendments to 4.40(4) "e," "f"; and 4.40(17-19) delayed 70 days by the Administrative Rules Review Committee. Delay lifted 8/21/91, effective 8/22/91.

CHAPTER 19
REQUIREMENTS FOR MANDATORY ERRORS AND OMISSIONS INSURANCE

[Prior to 9/4/02, see 193E—Ch 6]

193E—19.1(543B) Insurance definitions.

“Aggregate limit” is a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period such as the policy term.

“Claims-made” means policies written under a claims-made basis will cover claims made (reported or filed) during the year the policy is in force for incidents which occur that year or during any previous period the policyholder was insured under the claims-made contract. This form of coverage is in contrast to the occurrence policy which covers today’s incident regardless of when a claim is filed even if it is one or more years later.

“Extended reporting period” is a designated period of time after a claims-made policy has expired during which a claim may be made and coverage triggered as if the claim had been made during the policy period.

“Licensee” is any active individual broker, broker associate, or salesperson; any partnership; or any corporation.

“Per claim limit” means the maximum limit payable, per licensee, for damages arising out of the same error, omission, or wrongful act.

“Prior acts coverage” applies to policies on a claims-made versus occurrence basis. Prior acts coverage responds to claims which are made during a current policy period, but the act or acts causing the claim or injuries for which the claim is made occurred prior to the inception of the current policy period.

“Proof of coverage” means a copy of the actual policy of insurance, a certificate of insurance or a binder of insurance.

“Retroactive date” is a provision found in many claims-made policies. The policy will not cover claims for injuries or damages that occurred prior to the retroactive date even if the claim is first made during the policy period.

“Umbrella type coverage” means a policy that provides insurance coverage for the broker or firm and all licensees assigned.

193E—19.2(543B) Insurance criteria—general. The group coverage insurance policy selected by the commission is approved by the Iowa insurance division. As a condition of licensure, all active real estate licensees follow Iowa Code section 543B.47(1) regarding mandatory errors and omissions insurance.

19.2(1) Who submits plan of coverage. The following persons submit proof of insurance when needed or when requested:

- a. Any active individual broker, broker associate, broker sole proprietor or salesperson.
- b. Any active firm.

19.2(2) Inactive status. Individuals whose licenses are on inactive status as defined in Iowa Code section 543B.5(12) do not need to carry errors and omissions insurance as authorized by Iowa Code section 543B.47(1).

19.2(3) Territory. All resident Iowa licensees are covered for activities contemplated under Iowa Code chapter 543B both in and out of the state of Iowa. Nonresident licensees participating under the state plan are not covered both in and out of the state of Iowa unless the state plan selected by the commission will cover participating nonresidents when involved in real estate activities in the nonresident state.

19.2(4) Insurance form. Licensees may obtain errors and omissions coverage through the insurance carrier selected by the commission to provide the group policy coverage. The following are minimum criteria of the group policy to be issued to the Iowa real estate commission including, as named insureds, all licensees who have paid the necessary premium:

- a. All activities contemplated under Iowa Code chapter 543B are included as covered activities;
- b. A per claim limit is not less than \$100,000;

- c. An annual aggregate limit is not less than \$100,000;
- d. Limits are to apply per licensee, per claim;
- e. Defense costs are to be payable in addition to damages;
- f. The contract of insurance pays, on behalf of the insured person(s), liabilities owed.

19.2(5) Contract period. The contract between the insurance carrier or program manager and the commission may be written for a one- to three-year period with the option to renew or renegotiate each year thereafter. The commission reserves the right to terminate the contract after written notice to the carrier at least 120 days prior to the end of any policy term and place the contract out for bid.

- a. Policy periods are not less than 12-month policy terms.
- b. The policy provides full and complete prior acts coverage.
 - (1) If the licensee purchased full prior acts coverage on or after July 1, 1991, that licensee continues to be guaranteed full prior acts coverage if insurance carriers are changed in the future.
 - (2) The retroactive date of the master policy is never later than July 1, 1991, for those that can provide proof of continuous coverage to that date.
 - (3) The retroactive date for each licensee is individually determined by the inception date of coverage and proof of continuous coverage to that date.
 - (4) The retroactive date for any new licensee who first obtains a license after July 1, 1991, is individually determined by the effective date of the license, the inception date of coverage, and proof of continuous coverage to that date.

19.2(6) Any licensee insured in the state selected program whose license becomes inactive will not be charged an additional premium if the license is reinstated during the policy period.

19.2(7) Any licenses issued other than at renewal and insured by the state selected program are subject to a pro-rata premium.

[ARC 7781C, IAB 4/17/24, effective 5/22/24]

193E—19.3(543B) Other coverage. Licensees are not mandated to purchase insurance coverage through the group policy selected by the commission and may obtain errors and omissions coverage independently if the coverage contained in the policy complies with the following:

19.3(1) For active individual licensees, all provisions of Iowa Code section 543B.47 apply.

If the other coverage is an individual policy, it is each licensee's responsibility to provide proof of independently carried insurance coverage to the Iowa real estate commission when needed.

19.3(2) For all active partnerships and corporations, otherwise known as firms, all provisions of Iowa Code section 543B.47 apply.

a. If the other coverage is an individual policy covering the firm, it is the designated broker's responsibility to provide proof of the firm's independently carried insurance coverage to the Iowa real estate commission when needed.

b. If the other coverage is an umbrella type policy covering the firm and all licensees assigned that perform real estate activities, it is the responsibility of the designated broker of the firm to provide a list of licensees assigned to the firm that are covered under the firm's insurance policy to the Iowa real estate commission when needed.

19.3(3) For sole-proprietor single license brokers, all provisions of Iowa Code section 543B.47 apply.

a. If the broker's other coverage is an individual policy, it is each licensee's responsibility to provide proof of the independently carried insurance coverage to the Iowa real estate commission when needed, as provided in subrule 19.3(1).

b. If the other coverage is an umbrella type policy covering the broker and all licensees assigned that perform real estate activities, it is the responsibility of the broker to provide a list of licensees assigned to the broker that are covered under the broker's insurance policy to the Iowa real estate commission when needed.

19.3(4) For independently carried individual type coverage, the following apply:

- a. All activities contemplated under Iowa Code chapter 543B are included as covered activities.
- b. A per claim limit is not less than \$100,000.

c. The maximum deductible for an individual policy for damages and defense, each licensee, and each claim is not more than the deductible of the commission group policy for the current policy term.

19.3(5) For firms and sole-proprietor brokerages with independently carried firm umbrella type coverage, the following apply:

a. All activities contemplated under Iowa Code chapter 543B are included as covered activities.

b. A per claim limit is not less than \$100,000.

c. An aggregate limit is:

(1) Not less than \$250,000 for a broker or firm with two through ten licensees;

(2) Not less than \$500,000 for a broker or firm with 11 through 40 licensees;

(3) Not less than \$1,000,000 for a broker or firm with 41 or more licensees.

d. There is no maximum deductible limit for firm umbrella type coverage policy.

e. If a firm size change or a sole-proprietor brokerage size change results in a higher aggregate minimum criteria, that firm or broker corrects the deficiency within one year, or the next renewal term of the insurance policy, whichever comes first.

19.3(6) To comply with the provisions of the Iowa errors and omissions law, if other independently carried insurance is provided, as proof of errors and omissions coverage for individual or firm umbrella type coverage, the other insurance carrier agrees to either a noncancelable policy, or provides a letter of commitment to notify the Iowa real estate commission 30 days prior to the intention to cancel the policy.

19.3(7) Whenever commission criteria, coverage, or limits change, the commission provides a reasonable transition period to allow the licensee or firm with other coverage the opportunity to change carriers or coverage to comply with all criteria and limits, providing the present policy was in effect and in compliance with all prior criteria. The licensee or firm corrects the deficiency within one year, or not later than the next renewal term of the insurance policy, whichever comes first.

19.3(8) It is the responsibility of each individual licensee to notify the commission when changing insurance status, coverage, or provider when necessary or when requested.

19.3(9) It is the responsibility of the designated broker of the firm to notify the commission when changing insurance status, coverage, or provider when necessary or when requested.

19.3(10) Self-insurance does not comply with the provisions of the Iowa errors and omissions insurance law.

[ARC 7781C, IAB 4/17/24, effective 5/22/24]

193E—19.4(543B) Administrative criteria—general.

19.4(1) It is the responsibility of the insurance carrier or program manager to obtain approval from the Iowa division of insurance for the group policy before inception of the program or policy period.

19.4(2) It is the responsibility of the insurance carrier or program manager to handle administrative duties relative to operation of the program selected by the commission, including billing and premium collection, toll-free access for questions, and claim processing and general informational mailings.

19.4(3) It is the responsibility of the insurance carrier or program manager to send a billing notice to each licensee.

19.4(4) It is the responsibility of the insurance carrier or program manager to collect all premiums due and verify proper payment.

A schedule of licensees who have paid the proper premium and who have coverage in force is provided electronically to the commission at agreed time intervals.

19.4(5) It is the responsibility of the insurance carrier or program manager to issue individual certificates to each licensee and a master policy to the commission.

19.4(6) It is the responsibility of the insurance carrier or program manager to market its program and to develop and distribute informational brochures about the coverages provided, services available and criteria of Iowa Code section 543B.47.

a. The content of any brochures or other literature provided is the responsibility of the insurance carrier or program manager.

b. Advertising materials may be reviewed by the executive officer for the commission or appropriate staff person for content only and not for a legal determination of compliance with Iowa law or division of insurance criteria.

19.4(7) It is the responsibility of the insurance carrier or program manager to provide educational seminars in the state of Iowa at the request of the commission and subject to terms and conditions agreeable to each party involved.

[ARC 7781C, IAB 4/17/24, effective 5/22/24]

193E—19.5(543B) Commission responsibilities. The commission provides the insurance carrier or program manager an electronic schedule of all active licensees approximately three months in advance of inception (or renewal), or as otherwise agreed upon, which the insurance carrier or program manager may use to issue billing notices.

19.5(1) The insurance carrier or program manager provides the commission with a schedule of insured licensees. The commission will be responsible for comparing this schedule against its own records to determine which licensees elected not to participate in the state program and those that have failed to furnish the commission with acceptable proof of insurance necessary for continued licensure.

19.5(2) It is the responsibility of the commission to review proof of other insurance received from licensees not participating in the state program and to confirm that the other insurance meets the minimum criteria of these rules.

19.5(3) The commission may mandate that an approved standard form be used to submit proof of other insurance coverage for review.

[ARC 7781C, IAB 4/17/24, effective 5/22/24]

193E—19.6(543B) Compliance.

19.6(1) The commission needs receipt of proof of errors and omissions insurance from new licensees before the license is issued.

19.6(2) The commission needs receipt of proof of errors and omissions insurance from the applicant before reinstating an expired license.

19.6(3) The commission needs receipt of proof of errors and omissions insurance before reactivating an inactive status license to active status.

19.6(4) Applicants for license renewal need to attest and certify that they have current errors and omissions insurance in effect that meets Iowa insurance criteria.

a. The commission will verify by random audit or on a test basis the insurance compliance attested to by the licensee.

b. Licensees participating in the state group program cannot be audited if commission records indicate the insurance carrier or program manager has submitted current proof of coverage.

c. Licensees with other insurance coverage cannot be audited if commission records indicate the current proof of coverage has been submitted.

d. The commission may randomly audit by any factor as will provide a reasonable sampling given the volume, purpose and scope of audit.

e. The commission may randomly audit as the result of any complaint filed with the commission whether or not adequate insurance coverage was questioned in the complaint.

f. The commission may audit compliance with insurance coverage at any time the commission has reasonable cause to question a licensee's compliance.

19.6(5) A licensee is needed to carry insurance on an uninterrupted basis and cannot avoid discipline simply by acquiring insurance after receipt of an audit notice.

19.6(6) Failure to comply with Iowa Code section 543B.47(6) within 20 calendar days of the commission's request is prima facie evidence of a violation of Iowa Code sections 543B.15(5) and 543B.47(1) and is grounds for the denial of an application for licensure, the denial of an application to renew a license, or the suspension or revocation of a license.

19.6(7) Submitting false documentation of insurance coverage, or falsely claiming to have or attesting to having insurance coverage, is prima facie evidence of violation of Iowa Code sections 543B.29(1) and 543B.34(1).

19.6(8) Failure to provide required proof of insurability within 30 days of written notice by the commission results in the placement of the license on inactive status. A license that has been placed on inactive status pursuant to this provision is not reactivated until satisfactory evidence has been provided verifying that coverage is current and in full force and effect.

[ARC 7781C, IAB 4/17/24, effective 5/22/24]

193E—19.7(543B) Records and retention. It is the responsibility of the licensee to maintain records which support the validity of the insurance. Documentation is retained by the licensee for a period of three years after the license renewal date or the anniversary of the license renewal date.

[ARC 7781C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 4/26/91, Notice 3/20/91—published 5/15/92, effective 6/19/91]

[Filed 12/4/92, Notice 9/30/02—published 12/23/92, effective 1/27/93]

[Filed 1/12/95, Notice 11/23/94—published 2/1/95, effective 3/8/95]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 9458B (Notice ARC 9338B, IAB 1/26/11), IAB 4/20/11, effective 5/25/11]

[Filed ARC 7781C (Notice ARC 7460C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 20
TIME-SHARE FILING
[Prior to 9/4/02, see 193E—2.8(557A)]

193E—20.1(557A) Time-share interval filing fees. Each initial filing made pursuant to Iowa Code sections 557A.11 and 557A.12 are accompanied by a basic filing fee of \$100 plus \$25 for every 100 time-share intervals or fraction thereof included in the offering.

20.1(1) A registration fee is paid with the filing of an application for registration consolidating additional time-share intervals with a prior registration and a fee of \$50 plus an additional fee of \$25 for every 100 time-share intervals or fraction thereof included in the offering.

20.1(2) A fee is not charged for amendments to the property report as a result of amendments to the initial filing, unless the commission determines the amendments are made for the purpose of avoiding the payment of a fee, in which event the amendment may be treated as an application for registration consolidating additional time-share intervals with a prior registration.

This rule is intended to implement Iowa Code chapter 557A.
[ARC 7782C, IAB 4/17/24, effective 5/22/24]

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 7782C (Notice ARC 7461C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 21
ENFORCEMENT PROCEEDINGS AGAINST UNLICENSED PERSONS

193E—21.1(17A,543B) Civil penalties against unlicensed persons.

21.1(1) Commission authority. The commission is authorized to issue a cease and desist order and to impose a civil penalty as authorized by Iowa Code section 543B.34(3) against any person who is not licensed by the commission but who acts in the capacity of a real estate broker or salesperson.

21.1(2) Unlicensed person. An “unlicensed person” includes any individual or business entity that has never been licensed by the commission, has voluntarily surrendered a license issued by the commission, or has allowed a license issued by the commission to lapse and the time in which the license could have been reinstated pursuant to rule 193E—3.6(272C,543B) or 193E—4.6(272C,543B) has passed.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.2(17A,543B) Unlawful practices. Practices by unlicensed persons which are subject to civil penalties include, but are not limited to:

1. Acts or practices by unlicensed persons which need licensure pursuant to Iowa Code sections 543B.1, 543B.3, and 543B.6, which do not fall into the exceptions listed in Iowa Code section 543B.7.
2. Violating Iowa Code section 543B.1.
3. Violating one or more of the provisions of Iowa Code section 543B.34 as they relate to acts or practices by unlicensed persons.
4. Use or attempted use of a licensee’s license or an expired, suspended, revoked, or nonexistent license.
5. Falsely impersonating a licensed real estate professional.
6. Providing false or forged evidence of any kind to the commission in obtaining or attempting to obtain a license.
7. Knowingly aiding or abetting an unlicensed person in any activity identified in this rule.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.3(17A,543B) Investigations. The commission is authorized by Iowa Code sections 17A.13(1) and 543B.34(3) to conduct such investigations as are needed to determine whether grounds exist to issue a cease and desist order and to impose civil penalties against an unlicensed person. Such investigations conform to the procedures outlined in 193—Chapter 6 and 193E—Chapter 18. Complaint and investigatory files concerning unlicensed persons are not confidential except as may be provided in Iowa Code chapter 22.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.4(17A,543B) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 543B.34, the commission is authorized in connection with an investigation of an unlicensed person to issue subpoenas to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Commission procedures concerning investigatory subpoenas are set forth in 193—Chapter 6.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.5(17A,543B) Notice of intent to impose civil penalty. Prior to issuing a cease and desist order and imposing a civil penalty against an unlicensed person, the commission provides the unlicensed person written notice and the opportunity to request a contested case hearing. Notice of the commission’s intent to issue a cease and desist order and to impose a civil penalty are served by certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the unlicensed person may accept service personally or through authorized counsel. The notice includes the following:

1. A statement of the legal authority and jurisdiction under which the proposed cease and desist order would be issued and the civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to obligate compliance with Iowa Code chapter 543B.
5. Notice of the unlicensed person's right to a hearing and the time frame in which hearing is requested.
6. The address to which written request for hearing is made.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.6(17A,543B) Requests for hearings.

21.6(1) Unlicensed persons request a hearing within 30 days of the date the notice is received if served through certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa Rule of Civil Procedure 1.305. A request for hearing is in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

21.6(2) If a request for hearing is not timely made, the commission chair or the chair's designee may issue an order imposing a civil penalty and compliance with Iowa Code chapter 543B, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

21.6(3) If a request for hearing is timely made, the commission issues a notice of hearing and conducts a contested case hearing in the same manner as applicable to disciplinary cases against licensees. Rules governing such hearings may be found in 193—Chapter 7 and 193E—Chapter 18.

21.6(4) An unlicensed person who fails to timely request a contested case hearing has failed to exhaust "adequate administrative remedies" as that term is used in Iowa Code section 17A.19(1).

21.6(5) An unlicensed person who is aggrieved or adversely affected by the commission's final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

21.6(6) An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and compliance with Iowa Code chapter 543B at any stage of the proceeding upon mutual consent of the commission.

21.6(7) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in 193—subrule 7.30(2). Hearings are open to the public.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.7(17A,543B) Alternative procedure. The commission may, as an alternative to the notice and request for hearing procedures described in rules 193E—21.5(17A,543B) and 193E—21.6(17A,543B), issue a statement of charges and notice of hearing in a format similar to that used for licensee discipline.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.8(17A,543B) Factors to consider. The commission may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.
5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.

9. Whether the violation involved an element of deception.
 10. Whether the unlawful practice violated a prior order of the commission, court order, cease and desist agreement, consent order, or similar document.
 11. The clarity of the issue involved.
 12. Whether the violation was willful and intentional.
 13. Whether the unlicensed person acted in bad faith.
 14. The extent to which the unlicensed person cooperated with the commission.
- [ARC 7783C, IAB 4/17/24, effective 5/22/24]

193E—21.9(17A,543B) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the commission may seek an injunction in district court, enter into a consent agreement with the unlicensed person, or issue an informal cautionary letter.

[ARC 7783C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A and 543B.

[Filed 6/6/05, Notice 3/16/05—published 7/6/05, effective 8/10/05]

[Filed ARC 7783C (Notice ARC 7462C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

CHAPTER 1

ORGANIZATION AND ADMINISTRATION

- 1.1(543D) Description
- 1.2(543D) Administrative authority
- 1.3(543D) Annual meeting
- 1.4(543D) Other meetings
- 1.5(543D) Executive officer's duties
- 1.6(543D) Records, filings, and requests for public information
- 1.7(543D) Adoption, amendment or repeal of administrative rules
- 1.8(543D) Types of appraiser classifications
- 1.9(543D) Qualified state appraiser certifying agency
- 1.10(543D) AQB criteria

CHAPTER 2

DEFINITIONS

- 2.1(543D) Applicability

CHAPTER 3

GENERAL PROVISIONS FOR EXAMINATIONS

- 3.1(543D) Examinations
- 3.2(543D) Conduct of applicant
- 3.3(543D) Application for certification or registration

CHAPTER 4

ASSOCIATE REAL ESTATE APPRAISER

- 4.1(543D) Qualifications to register as an associate appraiser
- 4.2(543D) Supervision of associate appraisers
- 4.3(543D) Renewal of associate appraiser registration
- 4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser
- 4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser
- 4.6(272C,543D) Reinstating or reactivating an associate registration
- 4.7(543D) Supervisory appraiser requirements

CHAPTER 5

CERTIFIED REAL ESTATE APPRAISER

- 5.1(543D) General
- 5.2(543D) Education
- 5.3(543D) Examination
- 5.4(543D) Supervised experience needed for initial certification
- 5.5(543D) Demonstration of experience
- 5.6(543D) Work product review
- 5.7(543D) PAREA
- 5.8(543D) Upgrade from a certified residential real estate appraiser to a certified general real estate appraiser

CHAPTER 6
DISCIPLINARY ACTIONS AGAINST CERTIFIED AND
ASSOCIATE APPRAISERS

- 6.1(17A,272C,543D) Disciplinary authority
- 6.2(543D) Standards of practice
- 6.3(17A,272C,543D) Grounds for discipline

CHAPTER 7
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

- 7.1(272C,543D) Disciplinary action
- 7.2(17A,272C,543D) Initiation of disciplinary investigations
- 7.3(17A,272C,543D) Conflict of interest
- 7.4(272C,543D) Complaints
- 7.5(272C,543D) Case numbers
- 7.6(17A,272C,543D) Investigation procedures
- 7.7(17A,272C,543D) Informal discussion
- 7.8(272C,543D) Peer review committee (PRC)
- 7.9(17A,272C,543D) Closing complaint files
- 7.10(17A,272C,543D) Initiation of disciplinary proceedings
- 7.11(543D) Decisions
- 7.12(272C,543D) Mitigating and aggravating factors
- 7.13(272C,543D) Voluntary surrender
- 7.14(272C,543D) Reinstatement

CHAPTER 8
RENEWAL, EXPIRATION AND REINSTATEMENT OF
CERTIFICATES AND REGISTRATIONS, RETIRED STATUS, AND INACTIVE STATUS

- 8.1(272C,543D) Biennial renewal
- 8.2(272C,543D) Notices
- 8.3(272C,543D) Renewal procedures
- 8.4(272C,543D) Failure to renew
- 8.5(272C,543D) Inactive status
- 8.6(272C,543D) Retired status
- 8.7(272C,543D) Property of the board

CHAPTER 9
RECIPROCITY

- 9.1(543D) Nonresident certification by reciprocity
- 9.2(543D) Temporary practice permit

CHAPTER 10
CONTINUING EDUCATION

- 10.1(272C,543D) Definitions
- 10.2(272C,543D) Continuing education obligations
- 10.3(272C,543D) Minimum program qualifications
- 10.4(272C,543D) Standards for provider and program approval
- 10.5(272C,543D) Acceptable distance education courses
- 10.6(272C,543D) Applications for approval of programs
- 10.7(272C,543D) Waiver of application fees
- 10.8(272C,543D) Authority to approve education
- 10.9(272C,543D) Appraiser request for preapproval of continuing education programs
- 10.10(272C,543D) Appraiser request for postapproval of continuing education program

- 10.11(272C,543D) Review of provider or program
- 10.12(272C,543D) Hearings

CHAPTER 11

FEEES

- 11.1(543D) Fees
- 11.2(543D) Prorating of registration fees

CHAPTER 12

ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

- 12.1(543D) Civil penalties against nonlicensees
- 12.2(543D) Grounds for imposing civil penalties
- 12.3(543D) Notice of intent to impose civil penalties
- 12.4(543D) Request for hearing

CHAPTER 13

LICENSURE OF PERSONS LICENSED IN OTHER JURISDICTIONS

- 13.1(272C) Definitions
- 13.2(272C) Licensure of persons licensed in other jurisdictions

CHAPTER 1
ORGANIZATION AND ADMINISTRATION

[Prior to 2/20/02, see 193F—Chapters 2, 9 and 11]

193F—1.1(543D) Description.

1.1(1) The purpose of the real estate appraiser examining board is to administer and enforce the provisions of Iowa Code chapter 543D with regard to the appraisal of real property in the state of Iowa, examination of candidates, issuance of licenses, investigation of alleged violations by licensees, and discipline of those regulated by the board. Through its actions, the board seeks to promote and maintain a high level of public trust in professional appraisal practice.

1.1(2) The board maintains an office at 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

1.1(3) All board action under Iowa Code chapter 543D will be taken under the supervision of the director, as provided in Iowa Code section 543D.23 and these implementing rules.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.2(543D) Administrative authority.

1.2(1) The director is vested with authority to review, approve, modify, or reject all board action pursuant to Iowa Code chapter 543D. The director may exercise all authority conferred upon the board and has to have access to all records and information to which the board has access. In supervising the board, the director will independently evaluate the substantive merits of recommended or proposed board actions which may be anticompetitive.

1.2(2) In performing its duties and in exercising its authority under Iowa Code chapter 543D, the board may take action without preclearance by the director if the action is ministerial or nondiscretionary. As used in this chapter, the words “ministerial or nondiscretionary” include any action expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. The board may, for example, grant or deny an application for initial or reciprocal certification as a real estate appraiser, an application for registration as an associate real estate appraiser, or an application for a temporary practice permit by an out-of-state appraiser, on any ground expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

1.2(3) Prior to taking discretionary action under Iowa Code chapter 543D, the board will secure approval of the director if the proposed action is or may be anticompetitive. As used in this chapter, the word “discretionary” includes any action that is authorized but not expressly imposed by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. Examples of discretionary action include orders in response to petitions for rulemaking, declaratory orders, or waivers from rules, rulemaking, disciplinary proceedings against licensees, administrative proceedings against unlicensed persons, or any action commenced in the district court.

1.2(4) Determining whether any particular action is or may be anticompetitive is necessarily a fact-based inquiry dependent on a number of factors, including potential impact on the market or restraint of trade. With respect to disciplinary actions, for instance, a proceeding against a single licensee for violating appraisal standards would not have an impact on the broader market and would accordingly not be an anticompetitive action. Commencement of disciplinary proceedings which affect all or a substantial subset of appraisers may have a significant market impact. When in doubt as to whether a proposed discretionary action is or may be anticompetitive, the board may submit the proposed action to the director for preclearance.

1.2(5) A person aggrieved by any final action of the board taken under Iowa Code chapter 543D may appeal that action to the director within 20 days of the date the board issues the action.

a. The appeal process applies whether the board action at issue was ministerial or nondiscretionary, or discretionary, and whether the proposed action was or was not submitted through a preclearance process before the director.

b. No person aggrieved by a final action of the board may seek judicial review of that action without first appealing the action to the director.

c. Records, filings, and requests for public information. Final board action, regardless of whether such board action is ministerial, nondiscretionary, or discretionary, will be immediately effective when

issued by the board but is subject to review or appeal to the director. If a timely review is initiated or a timely appeal is taken, the effectiveness of such final board action will be delayed during the pendency of such review or appeal.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.3(543D) Annual meeting. The annual meeting of the board will be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson are elected to serve until their successors are elected.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.4(543D) Other meetings. In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the chairperson of the board or by joint call of a majority of its members.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.5(543D) Executive officer's duties.

1.5(1) The executive officer is to cause complete records to be kept of applications for examination and registration, certificates and permits granted, and all necessary information in regard thereto.

1.5(2) The executive officer is to determine when the legal obligations for certification and registration have been satisfied with regard to issuance of certificates or registrations, and the executive officer will submit to the board any questionable application.

1.5(3) The executive officer will keep accurate minutes of the meetings of the board. The executive officer will keep a list of the names of persons issued certificates as certified general real property appraisers, certified residential real property appraisers and associate real property appraisers.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.6(543D) Records, filings, and requests for public information. Unless otherwise specified by the rules of the department of inspections, appeals, and licensing, the board is the principal custodian of its own agency orders, statements of law or policy issued by the board, legal documents, and other public documents on file with the board.

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours.

1.6(2) Deadlines. Unless the context dictates otherwise, such as is the case for timely renewal of a registration or certificate, any deadline for filing a document will be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.7(543D) Adoption, amendment or repeal of administrative rules.

1.7(1) The board is authorized to adopt, amend or repeal its administrative rules in accordance with the provisions of Iowa Code section 17A.4. Prior to the adoption, amendment or repeal of any rule of the board, any interested person, as described in Iowa Code section 17A.4(1) "b," may submit any data, views, or arguments in writing concerning such rule or may request to make an oral presentation concerning such rule. Such written comments or requests to make oral presentations are to be filed with the board at its official address and should clearly state:

a. The name, address, and telephone number of the person or agency authoring the comment or request;

b. The number and title of the proposed rule, which is the subject of the comment or request as given in the Notice of Intended Action;

c. The general content of the oral presentation. A separate comment or request to make an oral presentation will be made for each proposed rule to which remarks are to be asserted.

1.7(2) The board will acknowledge receipt and acceptance for consideration of written comments and requests to make oral presentations.

1.7(3) Written comments received after the deadline set forth in the Notice of Intended Action may be accepted by the board although their consideration is not assured. Requests to make an oral presentation received after the deadline will not be accepted and will be returned to the requester.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.8(543D) Types of appraiser classifications. There are four types of appraiser classifications:

1. Associate residential real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 4.

2. Associate general property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 4.

3. Certified residential real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 5.

4. Certified general real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 5.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.9(543D) Qualified state appraiser certifying agency.

1.9(1) The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

1.9(2) The board will adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D. To the extent that the rules conflict with the minimum obligations outlined in the current version of the AQB criteria, the minimum standards established in the criteria will apply and these rules will give way to the minimum obligations to comply with federal rule, law, or policy.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

193F—1.10(543D) AQB criteria.

1.10(1) No person may be certified as a certified appraiser unless the person is eligible under the January 1, 2022, AQB criteria.

1.10(2) The January 1, 2022, AQB criteria outline the conditions under which applicants for certification are eligible to take the mandated examinations.

[ARC 7837C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 543D.4, 543D.5, 543D.7, 543D.17, 543D.20 and 543D.22 and chapter 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed emergency 4/9/93—published 4/28/93, effective 4/9/93]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 9/26/02, Notice 8/21/02—published 10/16/02, effective 11/20/02]

[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1467C (Notice ARC 1410C, IAB 4/2/14), IAB 5/28/14, effective 7/2/14]

[Filed ARC 2808C (Notice ARC 2710C, IAB 9/14/16), IAB 11/9/16, effective 1/1/17]

[Filed ARC 3084C (Notice ARC 2966C, IAB 3/15/17), IAB 5/24/17, effective 6/28/17]

[Filed ARC 4169C (Notice ARC 4006C, IAB 9/26/18), IAB 12/5/18, effective 1/9/19]

[Filed ARC 4379C (Notice ARC 4224C, IAB 1/16/19), IAB 3/27/19, effective 5/1/19]

[Filed ARC 4707C (Notice ARC 4567C, IAB 7/31/19), IAB 10/9/19, effective 11/13/19]

[Filed ARC 5237C (Notice ARC 5126C, IAB 8/12/20), IAB 10/21/20, effective 11/25/20]

[Filed ARC 5484C (Notice ARC 5261C, IAB 11/4/20), IAB 2/24/21, effective 3/31/21]
[Filed ARC 5785C (Notice ARC 5611C, IAB 5/5/21), IAB 7/28/21, effective 9/1/21]
[Filed ARC 6170C (Notice ARC 6017C, IAB 11/3/21), IAB 2/9/22, effective 3/16/22]
[Filed ARC 6375C (Notice ARC 6254C, IAB 3/23/22), IAB 6/29/22, effective 8/3/22]
[Filed ARC 7837C (Notice ARC 7257C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 2
DEFINITIONS

[Prior to 2/20/02, see 193F—Chapter 1]

193F—2.1(543D) Applicability. The following definitions apply to the rules of the real estate appraiser examining board:

“*Appraisal Foundation*” means the same as defined in Iowa Code section 543D.2(3).

“*Appraisal subcommittee*” means the appraisal subcommittee of the Federal Financial Institutions Examination Council.

“*AQB*” means the Appraiser Qualifications Board of the Appraisal Foundation.

“*AQB Criteria*” or “*the Criteria*” means the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria, effective as of January 1, 2022.

“*ASB*” means the Appraisal Standards Board of the Appraisal Foundation.

“*Associate real property appraiser*” means the same as defined in Iowa Code section 543D.2(6).

“*Certified appraiser*” means an individual who has been certified in one of the following two classifications:

1. The certified residential real property appraiser classification is qualified to appraise one to four residential units without regard to value or complexity.

2. The certified general real property appraiser classification is qualified to appraise all types of real property.

“*Director*” means the same as defined in Iowa Code section 543D.2(9)“*a.*”

“*FFIEC*” means the Federal Financial Institutions Examination Council.

“*FIRREA*” means the Financial Institutions Reform Recovery and Enforcement Act of 1989.

“*USPAP*” means the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation, effective as of January 1, 2024.

This rule is intended to implement Iowa Code section 543D.2.

[ARC 7838C, IAB 4/17/24, effective 5/22/24]

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

[Filed ARC 9865B (Notice ARC 9716B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]

[Filed ARC 2808C (Notice ARC 2710C, IAB 9/14/16), IAB 11/9/16, effective 1/1/17]

[Filed ARC 7838C (Notice ARC 7258C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 3
GENERAL PROVISIONS FOR EXAMINATIONS

193F—3.1(543D) Examinations. Applicants for a license from the board need to take the examination from the board-approved testing service.

[ARC 7839C, IAB 4/17/24, effective 5/22/24]

193F—3.2(543D) Conduct of applicant.

3.2(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from the appraisal certification examinations in Iowa, or be subject to the imposition of other sanctions that the board deems appropriate.

3.2(2) Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

a. Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the examination; aiding by any means in the reproduction or reconstruction of any portion of the examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered examination.

b. Conduct that violates the standard of test administration, such as communicating with any other examination candidate during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the examination; or referencing any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

c. Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information needed for admission to the examination; impersonating an examination candidate or having an impersonator take the examination on one's behalf.

3.2(3) Any examination candidate who challenges a decision of the board under this rule may request a contested case hearing. The request for hearing will be in writing, will briefly describe the basis for the challenge, and will be filed in the board's office within 30 days of the date of the board decision that is being challenged.

[ARC 7839C, IAB 4/17/24, effective 5/22/24]

193F—3.3(543D) Application for certification or registration. Applicants for certification or registration have to successfully complete the appropriate examination.

3.3(1) All initial applications for certification or associate registration will be made through the board's online system. The board may deny an application as described in Iowa Code sections 543D.12 and 543D.17. The board may also deny an application based on disciplinary action pending or taken against an applicant consistent with Iowa Code section 272C.12.

3.3(2) Reserved.

[ARC 7839C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 543D.8.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 6/6/03, Notice 4/30/03—published 6/25/03, effective 7/30/03]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 10/3/07, Notice 8/1/07—published 10/24/07, effective 11/28/07]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1731C (Notice ARC 1631C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

[Filed ARC 4169C (Notice ARC 4006C, IAB 9/26/18), IAB 12/5/18, effective 1/9/19]

[Filed ARC 4379C (Notice ARC 4224C, IAB 1/16/19), IAB 3/27/19, effective 5/1/19]

[Filed ARC 5484C (Notice ARC 5261C, IAB 11/4/20), IAB 2/24/21, effective 3/31/21]
[Filed ARC 5785C (Notice ARC 5611C, IAB 5/5/21), IAB 7/28/21, effective 9/1/21]
[Filed ARC 7839C (Notice ARC 7259C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 4
ASSOCIATE REAL ESTATE APPRAISER
[Prior to 2/20/02, see rule 193F—3.6(543D)]

193F—4.1(543D) Qualifications to register as an associate appraiser.

4.1(1) Education. A person applying for registration as an associate appraiser will, at a minimum, satisfactorily complete all AQB-approved, qualifying education courses needed under the AQB criteria specifying educational standards applicable for registration as an associate appraiser.

4.1(2) Background check. A state and national criminal history check will be performed on any new associate appraiser applicant. The applicant will authorize release of the results of the criminal history check to the board. If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board may perform a new state and national criminal history check or may reject and return the application to the applicant.

4.1(3) Application process. After completing the AQB associate appraiser obligations, a person applying as an associate appraiser can then access the application through the board's online system. A sufficient application within the meaning of Iowa Code section 17A.18(2) will include all information as outlined in the board's online system and be accompanied by the applicable fee.

4.1(4) Registration denial. The board may deny an application for registration as an associate appraiser on any ground identified in 193F—subrule 3.4(1) or on any ground upon which the board may impose discipline against an associate appraiser, as provided in 193F—Chapter 6.
[ARC 7840C, IAB 4/17/24, effective 5/22/24]

193F—4.2(543D) Supervision of associate appraisers.

4.2(1) Direct supervision. An associate appraiser is subject to the direct supervision obligations set by the AQB criteria.

4.2(2) Supervisor registration. An associate appraiser, other than a PAREA associate, will identify all supervisors by whom the associate will be supervised through the board's online system and will promptly notify the board in the event of any change in supervisors. An associate appraiser, other than a PAREA associate, who does not have at least one approved active supervisor meeting the supervision obligations will be placed in inactive status until such time as the associate finds a supervisor. Associate appraisers wishing to maintain an inactive license have to continue to renew on a biennial basis in accordance with rule 193F—4.3(543D).

4.2(3) Scope of practice. The scope of practice for an associate appraiser is set by the AQB criteria.

4.2(4) Logs. An associate appraiser will maintain an appraisal experience log consistent with the AQB criteria.
[ARC 7840C, IAB 4/17/24, effective 5/22/24]

193F—4.3(543D) Renewal of associate appraiser registration. An associate appraiser registration has to be renewed on a biennial basis as more fully described in 193F—Chapter 8. An associate appraiser is subject to the same continuing education obligations applicable to a certified appraiser as a precondition for renewal. Continuing education obligations are outlined in 193F—Chapter 10.
[ARC 7840C, IAB 4/17/24, effective 5/22/24]

193F—4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser.

4.4(1) Associate classification. The associate appraiser classification is intended for those persons training to become certified appraisers and is not intended as a long-term method of performing appraisal services under the supervision of a certified appraiser in the absence of progress toward certification. As a result, the board may impose deadlines for achieving certification, or for satisfying certain prerequisites toward certification.

4.4(2) Progress reports. In order to assess an associate appraiser's progress toward certification, the board may request periodic progress reports from the associate appraiser and from the associate appraiser's supervisory appraiser or appraisers.
[ARC 7840C, IAB 4/17/24, effective 5/22/24]

193F—4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser. An associate appraiser may apply for certification as a certified residential real estate appraiser or as a certified general real estate appraiser as set by the AQB criteria and consistent with Iowa Code chapter 543D and the rules of the board.

[ARC 7840C, IAB 4/17/24, effective 5/22/24]

193F—4.6(272C,543D) Reinstating or reactivating an associate registration.

4.6(1) In order to reinstate or reactivate an associate registration that has lapsed or been placed in inactive or retired status, the applicant has to complete all continuing education obligations for reinstatement as required by board rule and the AQB criteria. Any qualifying education course taken under this rule as continuing education will also apply as qualifying education toward certification. If the applicant has completed all qualifying education prior to applying to reinstate a lapsed, retired, or inactive associate registration, the applicant may use any approved continuing education course as required by board rule and the AQB criteria.

4.6(2) If an appraiser's registration is placed in inactive status as a result of the appraiser's failure to maintain at least one approved active supervisor meeting the obligations of this chapter pursuant to subrule 4.2(2), the applicant will complete the continuing education in accordance with subrule 4.6(1) in order to reinstate the associate registration but is not obligated to pay any reinstatement fee otherwise due so long as the associate has not renewed the registration to inactive status or allowed the registration to lapse prior to reinstating or reactivating the registration.

[ARC 7840C, IAB 4/17/24, effective 5/22/24]

193F—4.7(543D) Supervisory appraiser requirements. Iowa follows the AQB criteria and USPAP concerning supervisory appraiser requirements.

[ARC 7840C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 543D and 272C.

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 4/6/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1731C (Notice ARC 1631C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

[Filed ARC 3084C (Notice ARC 2966C, IAB 3/15/17), IAB 5/24/17, effective 6/28/17]

[Filed ARC 4169C (Notice ARC 4006C, IAB 9/26/18), IAB 12/5/18, effective 1/9/19]

[Filed ARC 5237C (Notice ARC 5126C, IAB 8/12/20), IAB 10/21/20, effective 11/25/20]

[Filed ARC 5484C (Notice ARC 5261C, IAB 11/4/20), IAB 2/24/21, effective 3/31/21]

[Filed ARC 5785C (Notice ARC 5611C, IAB 5/5/21), IAB 7/28/21, effective 9/1/21]

[Filed ARC 6170C (Notice ARC 6017C, IAB 11/3/21), IAB 2/9/22, effective 3/16/22]

[Filed ARC 7840C (Notice ARC 7260C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 5
CERTIFIED REAL ESTATE APPRAISER
[Prior to 4/17/24, see 193F—Chapter 6]

193F—5.1(543D) General.

5.1(1) Iowa Code chapter 543D regulates appraisal services performed in this state when appraiser certification is needed under federal law. Iowa recognizes two types of certification: certified residential real estate appraiser and certified general real estate appraiser. Iowa does not provide licenses for the “licensed real estate appraiser” category recognized under federal law. More information can be found in 12 CFR Section 34.43. Therefore, appraisal services involving federally related transactions in the state have to be performed by an Iowa certified real estate appraiser with the appropriate certification for the property at issue, or by a person holding an appropriate license or certification from a foreign jurisdiction who also has been issued a temporary practice permit under Iowa Code section 543D.11(2).

5.1(2) The chart below outlines the differences between two certifications issued by the board.

	Certified Residential Real Estate Appraiser	Certified General Real Estate Appraiser
Property type that can be appraised	Residential units ranging from one to four tenants	All real estate, including commercial and agricultural
Qualifying education core curriculum	200 hours	300 hours
Qualifying education	Bachelor’s degree or higher from an accredited college, junior college, community college, or university; or, an associate’s degree in specific fields, 30 semester hours of college-level course working in specific areas, 30 semester hours of CLEP examinations, or any combination CLEP/college-level covering appropriate hours and topics	Bachelor’s degree or higher from an accredited college, junior college, community college, or university
Experience	1,500 hours accumulated in no less than 12 months	3,000 hours with a minimum of 1,500 hours general accumulated in no less than 18 months
Examination	Certified residential real property appraiser examination or the certified general real property appraiser examination	Certified general real property appraiser examination

5.1(3) All appraisers performing services regulated by the board are obligated to comply with USPAP.

[ARC 7842C, IAB 4/17/24, effective 5/22/24]

193F—5.2(543D) Education. Applicants for certification by the board have to meet the educational obligations of the AQB criteria.

[ARC 7842C, IAB 4/17/24, effective 5/22/24]

193F—5.3(543D) Examination. The prerequisites for taking the AQB-approved examination are collegiate education, experience, work product review, and completion of all creditable course hours as specified in this chapter. The core criteria hours, collegiate education, and all experience have to be completed as specified in this chapter. Equivalency will be determined in accordance with the AQB. USPAP qualifying education will be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified appraiser credential in active status and good standing.

5.3(1) In order to qualify to sit for the appropriate certified real estate appraiser examination, the applicant has to complete the board’s application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

- a.* A sufficient application within the meaning of Iowa Code section 17A.18(2) has to:
- (1) Be through the board's online system;
 - (2) Be signed by the applicant, be certified as accurate, or display an electronic signature by the applicant if submitted electronically;
 - (3) Be fully completed;
 - (4) Reflect, on its face, full compliance with all applicable continuing education obligations; and
 - (5) Be accompanied by the fee specified in 193F—Chapter 11.

b. The core criteria, collegiate education, experience, and work product review have to be completed and documentation submitted to the board at the time of application to sit for the examination.

5.3(2) The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results.

5.3(3) Responsibility for documenting the educational credits claimed rests with the applicant.

5.3(4) An applicant has to supply a true and accurate copy of the original examination scores when applying for certification.

5.3(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months after passing the examination, that examination result loses its validity to support issuance of an appraiser credential. To regain eligibility for the credential, the applicant has to retake and pass the examination. This obligation applies to individuals obtaining an initial certified credential or upgrading from an associate credential.

[ARC 7842C, IAB 4/17/24, effective 5/22/24]

193F—5.4(543D) Supervised experience needed for initial certification. Except as otherwise permitted herein, all experience needed to obtain certification has to be obtained consistent with Iowa Code section 543D.9.

5.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraiser Qualifications Board and Appraisal Subcommittee as providing qualifying experience for certification, whether or not the applicant was registered as an associate real estate appraiser at the time the educational program was completed. Such programs approved by federal authorities (e.g., practical applications of real estate appraisal (PAREA)) will incorporate direct supervision by a certified real estate appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as a real estate appraiser.

5.4(2) Exceptions. Applicants for certified real estate appraiser certification in Iowa may utilize experience obtained in the absence of registration as an associate real estate appraiser under the following circumstances:

a. Subject to any obligations or limitations established by applicable federal authorities, including the AQB and appraisal subcommittee (ASC), or applicable federal law, rule, or policy, hours qualifying for experience in any jurisdiction will be considered qualifying hours for experience in Iowa without board approval or authorization, as long as the applicant is able to establish by clear and convincing evidence all of the following:

(1) The qualifying hours obtained were completed in another jurisdiction under the direct supervision of an appropriate active certified real estate appraiser in that jurisdiction in accordance with the AQB and the jurisdiction's laws, rules, or policies.

(2) The nature of the experience attained in another jurisdiction is qualitatively and substantially equivalent to the experience an associate real estate appraiser would receive under the direct supervision of a certified real estate appraiser in this state.

b. Reserved.

[ARC 7842C, IAB 4/17/24, effective 5/22/24]

193F—5.5(543D) Demonstration of experience. The board applies the dictates of Iowa Code section 543D.9 and the AQB criteria in determining whether the experience necessary for certification has been met.

5.5(1) An applicant is obligated to appear before the board to supplement or verify evidence of experience.

5.5(2) The board may inspect documentation relating to an applicant's claimed experience.
[ARC 7842C, IAB 4/17/24, effective 5/22/24]

193F—5.6(543D) Work product review.

5.6(1) An applicant will submit a complete appraisal log at the time of application for examination and experience consistent with the AQB criteria. Three appraisal reports will be selected by the board from the log. The applicant will submit electronically one copy of each report and work file for each of the selected appraisals along with the appropriate fee. The work product submission will not be redacted by the applicant. The board reserves the right to request additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product.

5.6(2) The board will treat all appraisals received as confidential pursuant to USPAP. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit demonstration appraisals if based on factual information and clearly marked as demonstration appraisals.

5.6(3) An applicant seeking original certification as a certified general real estate appraiser will submit one residential appraisal and two nonresidential appraisals for review. An applicant seeking an upgrade certification to a certified general real estate appraiser will submit two nonresidential appraisals for review.

5.6(4) The board will submit the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

5.6(5) The work product review process is not intended as an endorsement of an applicant's work product. No applicant or appraiser will represent the results of work product review in communications with a client or in marketing to potential clients in a manner that falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply may be grounds for discipline.

5.6(6) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of assistance to arrive at a mutually agreeable remedial plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

5.6(7) An applicant who is denied certification based on the work product review described in this rule, or on any other ground, will be entitled to a contested case hearing. Notice of denial will specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

5.6(8) If probable cause exists, the board may open a disciplinary investigation based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real estate appraiser seeking an upgrade to a certified general real estate appraiser, or where the applicant is uncertified and is working under the supervision of a certified real estate appraiser who cosigned the appraisal report.

5.6(9) After accumulating a minimum of 500 hours of appraisal experience, an applicant may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. Work product submitted for educational purposes only will not result in disciplinary action on either the associate appraiser or the associate appraiser's supervisor so long as the appraisal review did not reveal negligent or egregious errors or omissions. The fee for voluntary submissions of work product for review is provided in 193F—Chapter 11.

5.6(10) The board will retain the appraisals for as long as needed as documentation of the board's actions for the Appraisal Subcommittee or as needed in a pending proceeding involving the work product

of the applicant or the applicant's supervisor. When no longer needed for such purposes, the work product may be retained or destroyed at the board's discretion.

[ARC 7842C, IAB 4/17/24, effective 5/22/24]

193F—5.7(543D) PAREA. PAREA utilizes simulated experience training and serves as an alternative to the traditional supervisor/trainee experience model. PAREA programs have to be AQB-approved and meet all the applicable AQB criteria. An applicant who meets the prerequisites of a PAREA program prior to commencement of training and who receives a valid certificate of completion from an AQB-approved PAREA program, has met the allotted experience obligations as outlined in the AQB criteria for that specific PAREA program. PAREA program experience allotment will be awarded per the AQB criteria at the time of program completion.

Applicants claiming PAREA experience credit are not allowed partial credit for PAREA training (rules 193F—5.1(543D) through 193F—5.7(543D)).

[ARC 7842C, IAB 4/17/24, effective 5/22/24]

193F—5.8(543D) Upgrade from a certified residential real estate appraiser to a certified general real estate appraiser. To upgrade from a certified residential real estate appraiser to a certified general real estate appraiser, an applicant has to satisfy all obligations of this rule, which include work product review and a state and national criminal history check as provided in Iowa Code section 543D.22.

5.8(1) Education.

a. Collegiate education. Certified residential real estate appraisers have to satisfy the college-level education obligations of the AQB.

b. Core criteria. In addition to the formal education and core criteria educational obligations originally needed to obtain a certified residential credential, an applicant has to meet the current AQB obligations before taking the AQB-approved examination.

5.8(2) Examination. An applicant has to satisfy the examination obligations.

5.8(3) Supervision and experience.

a. Experience. An applicant has to satisfy all of the experience obligations while in active status and in accordance with AQB criteria.

b. Supervision. Subject to applicable exceptions, all nonresidential experience obtained and applied toward obtaining a certified general credential as part of the upgrade process will be performed under the tutelage of a certified general real property appraiser, subject to AQB-required coursework.

[ARC 7842C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 543D.5, 543D.8, 543D.9, and 543D.22.

[Filed ARC 7842C (Notice ARC 7262C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 6
DISCIPLINARY ACTIONS AGAINST CERTIFIED AND
ASSOCIATE APPRAISERS
[Prior to 4/17/24, see 193F—Chapter 7]

193F—6.1(17A,272C,543D) Disciplinary authority. The board is empowered to regulate the real estate appraiser profession for the protection and well-being of the public trust. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of applicants and licensees and to address disciplinary concerns under Iowa law.
[ARC 7843C, IAB 4/17/24, effective 5/22/24]

193F—6.2(543D) Standards of practice. All registered associate appraisers and certified real estate appraisers will comply with the USPAP edition applicable to each appraisal assignment.
[ARC 7843C, IAB 4/17/24, effective 5/22/24]

193F—6.3(17A,272C,543D) Grounds for discipline. The board may initiate disciplinary action against a registered associate appraiser or a certified real estate appraiser based on any one or more of the following grounds:

6.3(1) Code violations. Any violation of an Iowa Code provision that authorizes imposition of licensee sanctions:

a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed;

b. Attempting to file or filing with the board any false or forged diploma, course certificate, identification, credential, license, registration, certification, examination report, affidavit, or other record;

c. Failing or refusing to provide complete information in response to a question on an application for initial or renewal registration or certification; or

d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

6.3(2) Professional incompetence. Professional incompetence includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care that is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standards of acceptable and prevailing practice of registered associate appraisers or certified real property appraisers in this state.

e. A willful, repeated, or material deviation from USPAP standards, or other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including any violation of USPAP's competency rule.

6.3(3) Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include but are not limited to:

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of real property appraising.

b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a registrant or certificate holder in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation.

c. Falsification of business records or appraisal logs through false or deceptive representations or omissions.

d. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

e. Making any false or misleading statement in support of an application for registration or certification submitted by another.

f. Knowingly presenting as one's own a certificate or registration, certificate or registration number, or signature of another or of a fictitious registrant or certificate holder, or otherwise falsely impersonating a certified appraiser or registered associate appraiser.

g. Representing oneself as a registered associate appraiser or certified appraiser when one's registration or certificate has been suspended, revoked, surrendered, or placed on inactive or retired status, or has lapsed.

h. Permitting another person to use the registrant's or certificate holder's registration or certificate for any purposes.

i. Fraud in representations as to skill or ability.

j. Misrepresenting a specialized service as an appraisal assignment in violation of Iowa Code section 543D.18(3) or (5).

6.3(4) *Unethical, harmful or detrimental conduct.* Registrants and certificate holders engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct that are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

a. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of real property appraising or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of real estate appraising would place the public at risk.

b. Engaging in a professional conflict of interest, or otherwise violating the public trust, as provided in USPAP's ethics rule.

c. Aiding or abetting any unlawful activity for which a civil penalty can be imposed under rule 193F—12.2(543D).

6.3(5) *Lack of proper qualifications.*

a. Continuing to practice as a registered associate appraiser or certified real property appraiser without satisfying the continuing education for registration or certificate renewal.

b. Acting as a supervisor without proper qualification, as provided in rule 193F—4.7(543D).

c. Habitual intoxication or addiction to the use of drugs, or impairment that adversely affects the registrant's or certificate holder's ability to practice in a safe and competent manner.

d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications that are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b," or that impairs a practitioner's ability to safely and skillfully practice the profession.

e. Failure to meet the minimum qualifications for registration as an associate appraiser or certification as a certified real property appraiser.

f. Practicing outside the scope of a certification, or outside the scope of a supervisor's certification.

6.3(6) *Negligence by the registrant or certificate holder in the practice of the profession.* Negligence by the registrant or certificate holder in the practice of the profession includes but is not limited to:

a. A failure to exercise due care including negligent delegation of duties to or supervision of associate appraisers, or other employees, agents, or persons, in developing an appraisal, preparing an appraisal report, or communicating an appraisal, whether or not injury results.

b. Neglect of contractual or other duties to a client.

6.3(7) *Professional misconduct.*

a. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of real estate appraising.

b. Engaging in any conduct that subverts or attempts to subvert a board investigation.

c. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state or another state, territory, or country. A stay by an appellate court will not negate this obligation; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action will be vacated.

- d. A violation of Iowa Code section 543D.18.
- e. A violation of Iowa Code section 543D.20 (limitations on persons assisting in the development or reporting of a certified appraisal).
- f. Failure to retain records as provided in Iowa Code section 543D.19.
- g. Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

6.3(8) *Willful or repeated violations.* The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 543D, or any administrative rule adopted by the board in the administration or enforcement of such chapters.

6.3(9) *Failure to report.*

- a. Failure by a registrant or certificate holder or an applicant for a registration or certificate to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority, in Iowa or any other jurisdiction, within 30 calendar days of the final action.
- b. Failure of a registrant or certificate holder or an applicant for a registration or certificate to report, within 30 calendar days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action, in Iowa or any other jurisdiction.
- c. Failure to notify the board of a criminal conviction within 30 calendar days of the action, regardless of the jurisdiction where it occurred.
- d. Failure to notify the board within 30 calendar days after occurrence of any adverse judgment in a professional or occupational malpractice action, or settlement of any claim involving malpractice, regardless of the jurisdiction where it occurred.
- e. Failure to report another registrant or certificate holder to the board for any violation listed in these rules, pursuant to Iowa Code section 272C.9(2), promptly after the registrant or certificate holder becomes aware that a reportable violation has occurred.
- f. Failure to report to the board the appraiser's principal place of business and any change in the appraiser's principal place of business within 30 calendar days of such change.
- g. Failure of an associate appraiser or supervisor to timely respond to board requests for information, as provided in 193F—Chapter 4.

6.3(10) *Failure to comply with board order.* Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

6.3(11) *Conviction of a crime.*

a. Conviction, in this state or any other jurisdiction, of any felony offense that directly relates to the profession, or of any crime that is substantially related to the qualifications, functions, duties or practice of a person developing or communicating real estate appraisals to others. Any crime involving deception, dishonesty or disregard for the safety of others will be deemed directly related to the practice of real property appraising. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another jurisdiction will be conclusive evidence of the conviction. "Conviction" includes any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, or not entered, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction will be vacated. A conviction qualifies as a felony offense if the offense is designated as a felony in the jurisdiction in which the conviction occurred, or if the offense is committed in this state, the offense would be a felony, without regard to its designation elsewhere. An offense directly relates to the profession if either:

- (1) The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession, or
- (2) The circumstances under which an offense was committed are circumstances customary to the profession.

b. Notwithstanding the foregoing, a conviction may be grounds for revocation or suspension only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession.

[ARC 7843C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543D and 2007 Iowa Acts, Senate File 137.

[Filed ARC 7843C (Notice ARC 7263C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 7
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

[Prior to 4/17/24, see 193F—Chapter 8]

193F—7.1(272C,543D) Disciplinary action. The real estate appraiser examining board has authority under applicable law to impose discipline for violations of law.
[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.2(17A,272C,543D) Initiation of disciplinary investigations. The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated the licensee's legal obligations under the Iowa Code or board rule.
[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.3(17A,272C,543D) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member will abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.
[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.4(272C,543D) Complaints. Written complaints need to be submitted to the board through the board's online system. The board may also initiate its own complaints.

7.4(1) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

7.4(2) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

7.4(3) Initial complaint screening. Tips that are not complaints will be evaluated by the disciplinary committee but may not be assigned a case number or further investigated. Complaints that have been submitted and assigned a case number will be referred to the discipline committee. Final decisions on complaints will be made by the board.
[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.5(272C,543D) Case numbers. Whether based on written complaint received by the board or complaint initiated by the board, all complaint files will be tracked by a case numbering system. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.
[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.6(17A,272C,543D) Investigation procedures.

7.6(1) Disciplinary committee. The board chairperson will annually appoint two to three members of the board to serve on the board's disciplinary committee. The disciplinary committee is a purely advisory body that reviews complaint files referred by the board's executive officer, generally supervises the investigation of complaints, and makes recommendations to the full board on the disposition of complaints. Members of the committee will not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

7.6(2) Screening of complaints. All complaints presented to the board will be screened, evaluated and, where appropriate, investigated.
[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.7(17A,272C,543D) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee any opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

7.7(1) Because disciplinary investigations are confidential, only the licensee's legal representative may attend the information discussion with the board.

7.7(2) Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, licensees who desire to attend an informal discussion waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

7.7(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

7.7(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion.

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.8(272C,543D) Peer review committee (PRC). A peer review committee may be appointed by the board to investigate a complaint.

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.9(17A,272C,543D) Closing complaint files.

7.9(1) *Grounds for closing.* The board may close a complaint file, with or without prior investigation.

7.9(2) *Cautionary letters.* The board may issue a confidential letter of caution to a licensee when a complaint file is closed that informally cautions or educates the licensee about matters that could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

7.9(3) *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure that provides a basis to reassess the merits of the initial complaint. Complaint files may also be reopened when a complaint has been previously closed due to the lapse of the licensee's license.

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.10(17A,272C,543D) Initiation of disciplinary proceedings. Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified will not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, three members of the board constitute a quorum of the remaining five board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11(5).

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.11(543D) Decisions. The board will make findings of fact and conclusions of law, and set forth the board's decision, order, or both in the case. The board's decision may include, without limitation, any of the following outcomes, either individually or in combination:

1. Dismissing the charges;
2. Suspending or revoking the appraiser's certification or associate's registration as authorized by law;
3. Imposing civil penalties, the amount to be set at the discretion of the board but not exceeding \$1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code section 543D.17 and chapter 272C or for any repeat offenses;
4. Imposing a period of probation, either with or without conditions;
5. Obligating the licensee to undergo reexamination;
6. Obligating the licensee to take additional professional education, reeducation, or continuing education;
7. Issuing a citation and a warning;
8. Imposing desk review of the appraiser's work product;
9. Issuing a consent order either with or without conditions;
10. Imposing consultation with one or more peer reviewers;
11. Revoking an appraiser's eligibility to supervise;
12. Compelling submission of monthly logs;
13. Placing limitations on a licensee's practice, such as removing a licensee's authority to act as an instructor; and
14. Imposing any other form of discipline authorized by a provision of law that the board, in its discretion, believes is warranted under the circumstances of the case.

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.12(272C,543D) Mitigating and aggravating factors. Factors the board may consider when determining whether to impose discipline and what type of discipline to impose include but are not limited to:

- 7.12(1) History and background of respondent.**
- a. Whether the respondent was a registered associate appraiser or a certified appraiser at the time of the violation.
 - b. Prior disciplinary history or cautionary letters.
 - c. Length of certification or registration at the time of the violation.
 - d. Disciplinary history of current or prior supervisor.
 - e. Degree of cooperation with investigation.
 - f. Extent of self-initiated reform or remedial action after the date of the violation.
 - g. Whether the volume or geographic range of the respondent's practice is, or was at the time of the violation, reasonable under the circumstances.
 - h. Whether the respondent practiced with a lapsed, inactive, retired, suspended, revoked, or surrendered certificate or registration.
- 7.12(2) Nature of violations, not limited to:**
- a. Length of time since the date of the violation.
 - b. Whether the violation is isolated or recurring.
 - c. Whether there are multiple violations or appraisals involved.
 - d. Whether the violation is in the nature of an error or situational carelessness or neglect, or reflects a more fundamental lack of familiarity with applicable appraisal methodology or standards.
 - e. Indicia of bad faith, false statements, deceptive practices, or willful and intentional acts, whether within the circumstances of the violation or in the course of the board's investigation or disciplinary proceeding.
 - f. Evidence of improper advocacy or other violation of the USPAP ethics rule or of Iowa Code section 543D.18 or 543D.18A(1).
 - g. The clarity of the issue or standard involved.

h. Whether the respondent practiced outside the scope of practice authorized by respondent's certification or registration.

i. Whether the violation relates to the respondent's supervisory role, the respondent's individual appraisal practice, or both.

7.12(3) Interest of the public, not limited to:

a. Degree of financial or other harm to a client, consumer, lending institution, or others.

b. Risk of harm, whether or not the violation caused actual harm.

c. Economic or other benefit gained by respondent or by others as a result of the violation.

d. Deterrent impact of discipline.

e. Whether the respondent issued a corrected appraisal report when warranted.

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.13(272C,543D) Voluntary surrender. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

193F—7.14(272C,543D) Reinstatement. The following provisions apply to license reinstatement proceedings:

7.14(1) The board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, board members or staff before whom the applicant appears.

7.14(2) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193F—7.14(272C,543D).

7.14(3) The board will not grant an application for reinstatement when the initial order that revoked, suspended or placed limitations on the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

a. All terms of the sentencing or other criminal order have been fully satisfied;

b. The applicant has been released from confinement and any applicable probation or parole; and

c. Restitution has been made or is reasonably in the process of being made to any victims of the crime.

7.14(4) A state and national criminal history check may be performed on any applicant applying to reinstate registration or credential consistent with Iowa Code section 543D.22.

[ARC 7844C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 543D.5, 543D.17, and 543D.18 and chapters 17A and 272C.

[Filed ARC 7844C (Notice ARC 7264C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 8
RENEWAL, EXPIRATION AND REINSTATEMENT OF
CERTIFICATES AND REGISTRATIONS, RETIRED STATUS, AND INACTIVE STATUS
[Prior to 4/17/24, see 193F—Chapter 9]

193F—8.1(272C,543D) Biennial renewal.

8.1(1) Licenses have to be renewed on a biennial basis or they lapse.

8.1(2) Persons licensed before June 30, 2024, will maintain their biennial renewal timelines. For licensees initially licensed after June 30, 2024, all licenses will expire biennially on June 30.

Example: Certified general licensee obtains licensure on May 25, 2025. License will expire on June 30, 2026, with the first year being a partial year.

8.1(3) An application to renew a certificate or registration has to be submitted through the board's online system.

8.1(4) All continuing education claimed on a biennial renewal needs to have been acquired during the renewal period. In addition, all continuing education claimed on a biennial renewal has to have been taken and completed prior to submission of the renewal application.

[ARC 7845C, IAB 4/17/24, effective 5/22/24]

193F—8.2(272C,543D) Notices.

8.2(1) The board may send renewal notices to licensed appraisers. However, it is the licensee's responsibility to renew timely.

8.2(2) Certified and associate appraisers have to ensure that their contact information on file with the board office is current and that the board is notified within 30 days of any changes.

[ARC 7845C, IAB 4/17/24, effective 5/22/24]

193F—8.3(272C,543D) Renewal procedures.

8.3(1) *Date of filing.* Certified and associate appraisers have to file a complete renewal application with the board by the June 30 deadline in the biennial renewal year. An application will be deemed filed on the date of board receipt, the date of electronic submission or, if payment is mailed, the date postmarked but not the date metered.

8.3(2) *Continuing education.* An applicant for renewal has to report the applicant's compliance with the continuing education obligations provided in 193F—Chapter 10.

8.3(3) *Background disclosures.* An applicant for renewal has to disclose such background and character information as the board requests, which may include disciplinary action taken by any jurisdiction regarding a professional license of any type, the denial of an application for a professional license of any type by any jurisdiction, and the conviction of any crime.

8.3(4) *Insufficient applications.* The board will reject applications that are insufficient.

8.3(5) *Resubmission of rejected applications.* The board will promptly notify an applicant of the basis for rejecting an insufficient renewal application. Applicants may correct deficiencies and resubmit an application. Resubmitted applications are deemed received on the date of electronic submission.

8.3(6) *Administrative processing not determinative.* The administrative processing of an application to renew a certificate or registration will not prevent the board from subsequently challenging the application based on new information, such as after-acquired information of continuing education violations.

8.3(7) *Denial of timely and sufficient application to renew.* If grounds exist to deny an application to renew, the board will send notification to the applicant stating the grounds for denial.

[ARC 7845C, IAB 4/17/24, effective 5/22/24]

193F—8.4(272C,543D) Failure to renew.

8.4(1) The certificate or registration of a certified or associate appraiser lapses unless the appraiser submits a timely and sufficient renewal application by the expiration date.

8.4(2) Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is lapsed. Any violation of this subrule will be grounds for discipline.

8.4(3) Reinstatement. The board may reinstate a lapsed certificate or registration upon the applicant's submission of an application to reinstate and completion of all of the following:

- a. Paying a penalty as provided by board rule; and
- b. Paying the current renewal fee as provided by board rule; and
- c. Paying the Appraisal Subcommittee National Registry fee as provided by board rule; and
- d. Completing a state and national criminal history check as required by law; and
- e. Providing evidence of completed continuing education outlined in rule 193F—10.2(272C,543D), as modified for associate appraisers in subrule 8.4(6), if the licensee wishes to reinstate to active status; and
- f. Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant's license had lapsed. The statement will describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that federal or state law, rule, or policy mandate to be performed by a certified real estate appraiser.

8.4(4) Reinstating associate appraisers are to follow special continuing education obligations. The board seeks to ensure that associate appraisers make progress toward full completion of all qualifying education needed for eventual certification, as provided in the rules. As a result, an associate appraiser applying to reinstate a registration that has been lapsed for 12 months or longer will complete the most recent seven-hour USPAP course, and only qualifying education toward the continuing education needed for reinstatement, until all qualifying education has been completed. If the applicant has already completed all qualifying education or has to have continuing education hours beyond those needed to fully complete all qualifying education, the applicant may use any approved continuing education course in addition to the mandatory seven-hour USPAP course.

[ARC 7845C, IAB 4/17/24, effective 5/22/24]

193F—8.5(272C,543D) Inactive status.

8.5(1) *General purpose.* A licensee who is not engaged in Iowa in any practice licensed by the board may allow a license to lapse or register as inactive. The board will continue to maintain a database of persons registered as inactive as well as those whose license has lapsed. A person registered in inactive status is not allowed to perform services in this state regulated by the board. Continuing education is not required for licensees in inactive status.

8.5(2) *Eligibility.* A person holding an active license may apply on forms through the board's online system to register as inactive if the person is not engaged in appraisal practice in the state of Iowa for which a certificate or associate registration is needed. Inactive status is not available to an individual who has had a board-issued license revoked or suspended. A person seeking inactive status may be actively engaged in the practice of real estate appraising in another jurisdiction.

8.5(3) *Affirmation.* The application form will contain a statement in which the applicant affirms that the applicant will not engage in any conduct that would require an Iowa license without first complying with all rules governing reactivation to active status. A person in inactive status may reactivate to active status at any time pursuant to subrule 8.5(6).

8.5(4) *Renewal.* A person registered as inactive will need to renew biennially. Licensees in inactive status may continue to renew in inactive status. Active licensees may register in inactive status if, for instance, they have not completed all continuing education obligations needed for active status renewal. Any licensee in inactive status must satisfy all outstanding continuing education obligations before reinstating to active status. Continuing education obligations do not accrue during the period of inactive registration.

8.5(5) *Grounds for discipline.* Licensees are not authorized to practice or to hold themselves out to the public as board-licensed appraisers during the period of time that the licensee is in retired or inactive status. Any violation of this subrule will be grounds for discipline.

8.5(6) *Reactivation.* A person registered as inactive will apply to reactivate to active status prior to engaging in any practice in Iowa that necessitates active licensure by the board. An application to reactivate to active status will be through the board's online system. Prior to reactivation to active status, the applicant has to complete all education that would have been needed had the applicant been on active status, including the required courses set by the AQB criteria. All such continuing education has to be verified whether or not the applicant has been in active practice in another jurisdiction. Such an applicant will be given credit for the most recent renewal fees previously paid if the applicant applies to reactivate in the same biennium at other than the applicant's regular renewal date. An associate licensee changing from active to inactive status during a biennial renewal period will not, however, be entitled to a refund of any of the fees previously paid to attain active status.

[ARC 7845C, IAB 4/17/24, effective 5/22/24]

193F—8.6(272C,543D) Retired status. A certified licensee may place the licensee's license in retired status. For purposes of this rule, the term "retired" means the person has retired from working as a certified appraiser and has requested to be placed in retired status through the board's online system. A licensee in retired status may request that the license be placed back into active status so long as the licensee is still within the biennial period of the last active status. The board will not provide a refund of biennial registration and certification fees when an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Licensees in retired status are exempt from the renewal obligation. While in retired status, appraisers cannot hold themselves out to the public as being certified appraisers during the period of time that the license is in retired status.

[ARC 7845C, IAB 4/17/24, effective 5/22/24]

193F—8.7(272C,543D) Property of the board. Every license issued by the board will, while it remains in the possession of the holder, be preserved by the holder but will, nevertheless, always remain the property of the board.

[ARC 7845C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 543D.5.

[Filed ARC 7845C (Notice ARC 7265C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 9
RECIPROCITY

[Prior to 4/17/24, see 193F—Chapter 10]

193F—9.1(543D) Nonresident certification by reciprocity.

9.1(1) A nonresident of Iowa seeking certification in this state can apply for reciprocity through the board's online system and pay the board-established fee.

9.1(2) The board may issue a reciprocal certificate to a nonresident individual who is certified and demonstrates good standing in another state. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the good standing obligation without additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee will need to supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal.

9.1(3) A reciprocal certified appraiser will comply with all provisions of Iowa law and rules.

9.1(4) Reciprocal certified appraisers are obligated to pay the federal registry fee as set forth in the board's rules.

[ARC 7846C, IAB 4/17/24, effective 5/22/24]

193F—9.2(543D) Temporary practice permit.

9.2(1) The board will recognize, on a temporary basis, the license of a certified appraiser issued by another state for a period of six months, unless the applicant requests, and is approved for, a one-time extension. An extension request has to be received prior to the expiration date of the issuance of the temporary practice permit. An extension may be granted for up to six months past the original expiration date so long as the applicant is still eligible for a temporary practice permit.

9.2(2) The appraiser has to apply through the board's online system. The appraiser seeking a temporary practice permit must meet the other qualifying factors associated with reciprocity, including good standing and payment of the appropriate fee. The temporary practice permit will authorize the licensee to perform appraisal on the properties listed on the permit.

9.2(3) An appraiser holding an inactive, retired, or lapsed certificate as a real estate appraiser in Iowa may apply for a temporary practice permit if the appraiser holds an active, unexpired certificate as a real estate appraiser in good standing in another jurisdiction and is otherwise eligible for a temporary practice permit.

9.2(4) An appraiser who was previously a registered associate or certified appraiser in Iowa whose Iowa license has been revoked or surrendered in connection with a disciplinary investigation or proceeding is ineligible to apply for a temporary practice permit in Iowa.

9.2(5) The board may deny an application for a temporary practice permit based on prior discipline in this jurisdiction or other jurisdictions.

9.2(6) An appraiser holding an inactive, retired, or lapsed Iowa certificate who applies to reinstate to active status in Iowa will not be given credit for any fees paid during the biennial period for one or more temporary practice permits.

9.2(7) An appraiser holding a license to practice as a real estate appraiser in another jurisdiction may practice in Iowa without applying for a temporary practice permit or paying any fees as long as the appraiser does not perform appraisal services in Iowa that require licensure in this state.

9.2(8) The board will receive and approve an application for a temporary practice permit before the applicant is eligible to practice in Iowa under a temporary practice permit. Applicants will apply using the board's online system. The board will grant or deny all applications for temporary practice permits within the requirements set by the ASC. Applicants disclosing discipline or criminal convictions will need to attach supporting documentation so that the board can assess whether grounds exist to deny the application. Falsification of information or failure to disclose material information will be grounds to deny the application, deny subsequent applications, or to reinstate a lapsed or inactive Iowa license.

[ARC 7846C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 543D.10 and 543D.11.

[Filed ARC 7846C (Notice ARC 7266C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 10
CONTINUING EDUCATION
[Prior to 4/17/24, see 193F—Chapter 11]

193F—10.1(272C,543D) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Approved program*” means a continuing education program, course, or activity that satisfies the standards set forth in these rules and has received advance board approval pursuant to these rules.

“*Approved provider*” means a person or an organization that has been approved by the board to conduct continuing education programs pursuant to these rules.

“*Asynchronous*” means that the instructor and student interact in an educational offering in which the student progresses at the student’s own pace through structured course content and scheduled quizzes and examinations.

“*Board*” means the same as defined in Iowa Code section 543D.2(7).

“*Continuing education*” means education that is obtained by a person certified to practice real estate appraising in order to maintain, improve, or expand skills and knowledge obtained prior to initial certification or registration, or to develop new and relevant skills and knowledge, all as a condition of renewal.

“*Credit hour*” means the value assigned by the board, or the AQB, to a continuing or qualifying education program.

“*Distance education*” means any education process based on the geographical separation of student and instructor. “Distance education” includes asynchronous, synchronous, and hybrid educational offerings.

“*Guest speaker*” means an individual who teaches an appraisal education program on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter.

“*Hybrid*,” also known as a blended course, means a learning environment that allows for both in-person and online (synchronous or asynchronous) interaction.

“*Live instruction*” means an educational program delivered in a classroom setting where both the student and the instructor are present in the same room.

“*Qualifying education*” means education that is obtained by a person seeking certification as a real property appraiser prior to initial certification or registration.

“*Synchronous*” means that in an educational offering the instructor and student interact online simultaneously, as in a phone call, video chat or live webinar, or web-based meeting.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.2(272C,543D) Continuing education obligations.

10.2(1) Board-licensed appraisers have to demonstrate compliance with the continuing education set by the AQB criteria.

10.2(2) All continuing education credit hours may be acquired in approved education programs.

10.2(3) Instructors claiming continuing education credit may be requested to provide supporting documentation to ascertain course content and related details.

10.2(4) An applicant seeking to renew an initial license issued less than 185 days prior to renewal is not obligated to report any continuing education. An applicant seeking to renew an initial certificate or registration issued for 185 days to 365 days prior to renewal has to demonstrate completion of at least 14 credit hours, including the National USPAP continuing education course or its AQB equivalent. An applicant seeking to renew an initial certificate or registration issued 365 days prior to renewal or more has to demonstrate completion of at least 28 credit hours, including seven credit hours of the most recent National USPAP continuing education.

10.2(5) Prior to reinstatement or reactivation of a certified general or residential registration, a licensee in inactive, retired, or lapsed status has to complete all continuing education hours that would have been needed if the licensee was in active status. The hours will also include the most recent edition of a National USPAP Update course.

10.2(6) During each two-year renewal period, a continuing education program may be taken for credit only once.

10.2(7) At least 50 minutes of every class hour have to be attended by the student to count as an hour of continuing education.

10.2(8) An applicant may claim continuing education credits that have been approved by another jurisdiction that has a continuing education obligation for license renewal in that jurisdiction if the applicable program was approved by the other jurisdiction's appraisal regulatory body or the AQB for continuing education purposes at the time the applicant completed the course. The burden of proof in this regard is on the applicant. All other programs have to be approved upon application to the board pursuant to this chapter.

10.2(9) A person certified or registered to practice real estate appraising in Iowa will be deemed to have complied with Iowa's continuing education obligation for periods in which the person is a resident of another state or district having continuing education obligations for real estate appraising and meets all obligations of that state or district.

10.2(10) A person certified or registered to practice real estate appraising in Iowa who completes an education course approved by both the board and another appraiser regulatory body, for which the approved hours vary, will only be allowed to claim the hours approved by the board to meet the obligations of renewal of the person's associate registration or certified credential in Iowa. A person certified or registered to practice real estate appraising in Iowa who completes an educational course not approved in Iowa, but approved by either the AQB or by another appraiser regulatory body, may claim the hours awarded by either the AQB or the appraiser regulatory body of the other jurisdiction.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.3(272C,543D) Minimum program qualifications.

10.3(1) The board will only approve continuing education programs that provide a formal program of learning that contributes to the growth in the professional knowledge and professional competence of real estate appraisers.

10.3(2) Continuing education programs as listed in the AQB criteria are accepted by the board, as well as the following appraisal topics, which the board has determined are integrally related to appraisal topics in the state:

- a. Agriculture production and economics;
- b. Agronomy/soil; and
- c. Real estate appraisal technology (e.g., drones).

10.3(3) The following programs will not be acceptable:

- a. Sales promotion meetings held in conjunction with the appraiser's general business;
- b. Time devoted to breakfast, lunch, or dinner;
- c. A program certified by the use of a challenge examination. The number of hours will be completed to receive credit hours; and
- d. Programs that do not provide at least two credit hours.

10.3(4) Continuing education credit will be granted only for whole hours, with a minimum of 50 minutes constituting one hour.

10.3(5) Continuing education credit may be approved for university or college courses, when an official transcript is provided, in qualifying topics according to the following formula: Each semester hour of credit will equal 15 credit hours and each quarter hour of credit will equal 10 credit hours.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.4(272C,543D) Standards for provider and program approval. Providers and programs will satisfy the following minimum standards in order to be preapproved in accordance with the procedures established in this chapter and in order to maintain approved status:

10.4(1) The program will be taught or developed by individuals who have the education, training and experience to be considered experts in the subject matter of the program and competent in the use of teaching methods appropriate to the program.

10.4(2) Programs will be taught by instructors who have successfully completed an instructor development workshop within 24 months preceding board approval of the program. Certified USPAP instructors and instructors approved via a course delivery mechanism approval per the AQB criteria will be considered to have met this obligation.

10.4(3) In determining whether an instructor is qualified to teach a particular program, the board will consider whether the instructor has an ability to teach and an in-depth knowledge of the subject matter.

10.4(4) An instructor may demonstrate the ability to teach by meeting one or more of the following criteria:

- a.* Hold a bachelor's degree or higher in education from an accredited college;
- b.* Hold a current teaching credential or certificate in any real estate or real estate-related fields;
- c.* Hold a certificate of completion in the area of instruction from an instructor institute, workshop or school that is sponsored by a member of the Appraisal Foundation;
- d.* Hold a full-time current appointment to the faculty of an accredited college; and
- e.* Other, as the board may determine.

10.4(5) An instructor may demonstrate in-depth knowledge of the program's subject matter by meeting one or more of the following criteria:

- a.* Hold a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the instructor proposes to teach, such as business, economics, accounting, real estate or finance;
- b.* Hold a bachelor's degree or higher from an accredited college and have five years of appraisal experience related to the subject matter of the course the instructor proposes to teach;
- c.* Hold a generally recognized professional real property appraisal designation or be a sponsor member of the Appraisal Foundation; and
- d.* Other, as the board may determine.

10.4(6) Only AQB-certified USPAP instructors, listed on the website of the Appraisal Foundation may teach the National USPAP courses, or the AQB-approved equivalent.

10.4(7) Course content and materials will be accurate, consistent with currently accepted standards relating to the program's subject matter and updated no later than 30 days after the effective date of a change in standards, laws, or rules.

10.4(8) Programs will have an appropriate means of written evaluation by participants. Evaluations will include the relevance of the materials, effectiveness of presentation, content, facilities, and such additional features as are appropriate to the nature of the program.

10.4(9) No part of any course will be used to solicit memberships in organizations, recruit appraisers for affiliation with any organization or advertise the merits of any organization or sell any product, or service.

10.4(10) Providers will clearly inform prospective participants of the number of credit hours preapproved by the board for each program and all applicable policies concerning registration, payment, refunds, attendance obligations, and examination grading.

10.4(11) Procedures will be in place to monitor whether the person receiving credit hours is the person who attended or completed the program.

10.4(12) Providers will be accessible to students during normal business hours to answer questions and provide assistance as necessary.

10.4(13) Providers will comply with or demonstrate exemption from the provisions of Iowa Code sections 714.14 to 714.25.

10.4(14) Providers will designate a coordinator in charge of each program who will act as the board's contact on all compliance issues.

10.4(15) Programs will not offer more than eight credit hours in a single day.

10.4(16) Providers will not provide any information to the board, the public, or prospective students that is misleading in nature. For example, providers will not refer to themselves as a "college" or "university" unless qualified as such under Iowa law.

10.4(17) Providers will establish and maintain for a period of five years complete and detailed records on the programs successfully attended by each Iowa participant.

10.4(18) Providers will issue an individual certificate of attendance to each participant upon successful completion of the program.

10.4(19) Program providers and instructors are solely responsible for the accuracy of all program materials, instruction, and examinations. Board approval of a provider or program is not an assurance or warranty of accuracy and will not be explicitly or implicitly marketed or advertised as such.

10.4(20) Providers will apply for approval using the board's online system.

10.4(21) Providers will notify the board within 30 days of a change in the provider's primary contact, name, business address, or any other change that may affect the provider's tax identification number or bond obligations with the Iowa college aid commission.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.5(272C,543D) Acceptable distance education courses. Distance education involves geographical separation of student and instructor. A distance education course is acceptable to meet class hour obligations if it complies with the generic education criteria in the current AQB criteria.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.6(272C,543D) Applications for approval of programs. Applications for approval of programs will be submitted through the board's online system. All non-AQB courses are approved for 24 months, including the month of approval. Programs approved for distance education or by the AQB may be approved by the board. Board approval of a program will only be valid for the shortest period of time such a program is approved by either organization.

10.6(1) Approval will be obtained for each program separately. With the exception of hybrid courses, courses that are offered via more than one delivery method will require separate program approvals.

10.6(2) A nonrefundable fee of \$50 will be submitted for each program except for programs that are submitted for approval by the primary provider and that have been approved by the AQB through the AQB Course Approval Program (CAP).

10.6(3) All online applications and attachments will be submitted for approval at least 30 days prior to the first offering of each program or, if renewing, within 30 days of the course expiration date. The board will approve or deny each program, in whole or part, within 15 days of the date the board receives a fully completed application. Upon approval of an application for course offering, the board will specify the number of credit hours allowed. Payments for course program applications will be made within 30 calendar days of board approval or the application approval may be reversed.

10.6(4) Applications for non-AQB CAP courses will request information including, but not limited to, the following:

- a.* Program description;
- b.* Program purpose;
- c.* Learning objectives that specify the level of knowledge or competency the student should demonstrate upon completing the program;
- d.* Description of the instructional methods utilized to accomplish the learning objective;
- e.* Identifying information for all guest speakers or instructors and such documentation as is necessary to verify compliance with the instructor qualifications described in this chapter;
- f.* Copies of all instructor and student program materials or, in the case of a one-time course offering, a statement that attests all instructor and student materials will be submitted to the board within ten calendar days of the course offering;
- g.* Copies of all examinations and a description of all grading procedures;
- h.* A description of the diagnostic assessment method(s) used when examinations are not given;
- i.* Such information as needed to verify compliance with board rules;
- j.* The name, address, telephone number, and email address for the program's coordinator; and
- k.* Such other information as the board deems reasonably needed for informed decision making.

10.6(5) Application forms for courses that are AQB CAP-approved will include information as deemed necessary for accurate documentation but may be more limited than information set forth in this chapter.

10.6(6) The board will assign each provider and program a number. This number will be placed on all correspondence with the board, all subsequent applications by the same provider, and all certificates of attendance issued to participants.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.7(272C,543D) Waiver of application fees. Application fees may be waived for approved programs sponsored by a governmental entity when the program is offered at no cost or at a nominal cost to participants. A request for waiver of application fees should be made by the provider or certificate holder at the time the application is filed with the board.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.8(272C,543D) Authority to approve education. The executive officer has the authority to approve or deny education applications subject to the applicant's right to a hearing as provided for in this chapter.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.9(272C,543D) Appraiser request for preapproval of continuing education programs. An appraiser seeking credit for attendance and participation in a program that is to be conducted by a provider not accredited or otherwise approved by the board will apply for approval to the board at least 15 days in advance of the commencement of the activity. The board will approve or deny the application in writing. The online application for prior approval of a continuing education activity will include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title and hour-by-hour outline of the program, course or activity;
5. Credit hours requested for approval;
6. Date of program; and
7. Principal instructor(s).

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.10(272C,543D) Appraiser request for postapproval of continuing education program. An appraiser seeking credit for attendance and participation in a program that was not conducted by an approved provider or approved by the licensing authority in another state or otherwise approved by the board may submit a request for credit for the program. Within 15 days after receipt of the request, the board will advise the requester in writing whether the program is approved and the number of hours allowed. Appraisers not complying with the obligation of this rule may be denied credit for the program. Application for postapproval of a continuing education program will include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title of program and description of program;
5. Credit hours requested for approval;
6. Date(s) of program;
7. Student and instructor materials;
8. Principal instructor(s); and
9. Verification of attendance.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.11(272C,543D) Review of provider or program. The board on its own motion or upon receipt of a complaint or negative evaluation may monitor or review any approved program or provider and may withdraw approval of the provider or program and disallow all or any part of the approved hours granted to the provider based on evidence that the obligations of this chapter have not been met.

The provider, as a condition of approval, agrees to allow the board or its authorized representatives to monitor ongoing compliance with board rules through means including, but not limited to, unannounced attendance at programs.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

193F—10.12(272C,543D) Hearings. Any person aggrieved by board action related to this chapter may request a contested case hearing before the board.

[ARC 7847C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 543D.5, 543D.9 and 543D.16 and chapter 272C.

[Filed ARC 7847C (Notice ARC 7267C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 11

FEES

[Prior to 4/17/24, see 193F—Chapter 12]

193F—11.1(543D) Fees.

Initial examination application fee	\$150
Biennial registration fee for active status (initial, reciprocal, renewal):	
Associate/Certified real property appraiser > one year	\$200
Associate/Certified real property appraiser < one year	\$100
Biennial registration fee for inactive status (initial, reciprocal, renewal):	
Certified real property appraiser	\$100
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$100
Reinstatement of a lapsed or retired license (lapsed or retired to active status)	\$150 (plus the registration fee)
Reactivation of an inactive or retired license (inactive or retired to active status)	\$50 (plus the registration fee)
Formal wall certificate	\$25
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
Voluntary submission of residential reports for review	\$150 per report
Voluntary submission of nonresidential reports for review	\$250 per report
Course application fee (non-AQB-approved courses and secondary providers)	\$50
Pre-/post-course application fee	\$25
Background check	\$51
Add supervisory appraiser	\$25
Add course instructor	\$10
Waiver to administrative rules	\$25
Late renewal of associate or certified	\$50
ASC National Registry fee > one year, separate from registration fee (collected by the board for FFIEC)	\$80
ASC National Registry fee < one year, separate from registration fee (collected by the board for FFIEC)	\$40
Examination fee (and reexamination fee) (to be paid to the examination provider)	Current provider rate

[ARC 7848C, IAB 4/17/24, effective 5/22/24]

193F—11.2(543D) Prorating of registration fees. An applicant applying for initial or reciprocal registration or certification within 12 months from the applicant's renewal date, pursuant to

rule 193F—8.1(543D), will pay half the fee. An applicant applying for initial or reciprocal registration or certification more than 12 months from the applicant's renewal date will pay the full registration fee. An applicant applying to reinstate or reactivate a lapsed registration or certification within 12 months from the applicant's renewal date, pursuant to rule 193F—8.1(543D), will pay half the renewal fee plus the applicable reactivation or reinstatement fee. An applicant applying to reinstate or reactivate a lapsed registration or certification more than 12 months from the applicant's renewal date will pay the full renewal fee plus the applicable reactivation or reinstatement fee.

[ARC 7848C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 543D.6.

[Filed ARC 7848C (Notice ARC 7268C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 12
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES
[Prior to 4/17/24, see 193F—Chapter 16]

193F—12.1(543D) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 543D.21.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

193F—12.2(543D) Grounds for imposing civil penalties. Grounds for issuing an order requiring compliance with Iowa Code chapter 543D or imposing civil penalties up to \$1,000 for each violation include:

12.2(1) Violating Iowa Code section 543D.15(1) “a.”

12.2(2) Failing to obtain a temporary practice permit under Iowa Code section 543D.11(2).

12.2(3) Falsely impersonating a licensee by using the certification or registration title, number or signature of a licensee, or by using the nonexistent certification or registration title, number or signature of a fictitious holder of a board-issued license.

12.2(4) Violating Iowa Code section 543D.21(4) “e.”

12.2(5) Violating Iowa Code section 543D.20(1) “a,” “b,” “c,” or “d.”

12.2(6) Violating Iowa Code section 543D.18A.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

193F—12.3(543D) Notice of intent to impose civil penalties.

12.3(1) The notice of the board’s intent to issue an order to compel compliance with Iowa Code section 543D.21 and to impose a civil penalty will be served upon the nonlicensee by certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel.

12.3(2) The notice will include the following:

a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.

b. Reference to the particular sections of the statutes and rules involved.

c. A short, plain statement of the alleged unlawful practices.

d. The dollar amount of the proposed civil penalty and the nature of the intended order to compel compliance with Iowa Code section 543D.21.

e. Notice of the nonlicensee’s right to a hearing and the time frame in which hearing has to be requested.

f. The address to which a written request for hearing has to be made.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

193F—12.4(543D) Request for hearing.

12.4(1) Nonlicensees have to request a hearing within 30 days of the date the notice is received or service is accepted. A request for hearing has to be in writing and is deemed made on the date of the non-metered United States Postal Service postmark or the date of personal delivery to the board office.

12.4(2) If a request for hearing is not timely made, as described in the notice, the board chairperson or the chairperson’s designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

12.4(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees. Hearings involving nonlicensees are open to the public.

12.4(4) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D at any stage of the proceeding upon mutual consent of the board.

12.4(5) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A and 543D.

[Filed ARC 7855C (Notice ARC 7272C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 13
LICENSURE OF PERSONS LICENSED IN OTHER JURISDICTIONS

[Prior to 4/17/24, see 193F—Chapter 26]

193F—13.1(272C) Definitions.

“Issuing jurisdiction” means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

“License” or *“licensure”* means any license that may be granted by the board.
[ARC 7865C, IAB 4/17/24, effective 5/22/24]

193F—13.2(272C) Licensure of persons licensed in other jurisdictions.

13.2(1) An individual who establishes residency in this state or who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state may apply for licensure under this rule on forms provided by the board. A certification or registration will be issued if all of the following conditions are met:

a. The person is currently licensed, certified, or registered by at least one other issuing jurisdiction in the profession or occupation applied for with a substantially similar scope of practice and is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration. A license, certificate, or registration issued by another jurisdiction that is classified as a licensed residential real property credential or with a scope of practice of a licensed residential real property appraiser, as defined by the AQB criteria, other applicable federal law, rule, or policy, will not be considered a profession or occupation with a substantially similar scope of practice as it relates to a certification or registration as an associate real property appraiser, certified residential real property appraiser, or a certified general real property appraiser.

b. The person has been licensed, certified, or registered by the other issuing jurisdiction forming the basis of the application.

c. When the person was licensed by the other issuing jurisdiction forming the basis of the application, the issuing jurisdiction imposed minimum educational and experience obligations, and the issuing jurisdiction verifies that the person met those obligations in order to be licensed in that issuing jurisdiction. Generally, given federal mandates, the minimum educational and experience obligations to become certified as a real estate appraiser are substantially the same nationwide within the applicable classification and scope of practice.

d. The person previously passed an AQB-approved examination by the other issuing jurisdiction for licensure, certification, or registration.

e. The person has not had a license, certificate, or registration revoked and has not voluntarily surrendered a license, certificate, or registration in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the appropriate licensing board shall determine if the cause for the action was corrected and the matter resolved. If the licensing board determines that the matter has not been resolved by the jurisdiction imposing discipline, the licensing board will not issue or deny a license, certificate, or registration to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the appropriate licensing board shall not issue or deny a license, certificate, or registration to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees. The fees for applying for licensure under this rule will be the same as the fees for reciprocal licensure.

i. The person does not have a criminal history that would prevent the person from holding the license applied for in this state.

13.2(2) An individual applying for licensure under this rule will provide, as applicable, proof of current residency in the state of Iowa or proof of the military member's official permanent change of station to the state of Iowa.

a. Proof of residency may include, by way of example:

- (1) Residential mortgage, lease, or rental agreement;
- (2) Utility bill;
- (3) Bank statement;
- (4) Paycheck or pay stub;
- (5) Property tax statement;
- (6) A federal or state government document; or
- (7) Any other document that reliably confirms Iowa residency.

b. Proof of permanent change of station to the state of Iowa includes documentation issued by the appropriate branch of the military requiring a permanent change of station or otherwise indicating or demonstrating a permanent change of station has occurred.

13.2(3) In order to be considered a sufficient application, an application for licensure under this rule must include all appropriate information as required by this rule and, if applicable, the submission of fingerprints and an appropriate authorization of release as may be necessary to facilitate the board's completion of a criminal history check and any corresponding fee.

13.2(4) A person issued a license under this rule is subject to the jurisdiction of the board.

13.2(5) An applicant who is aggrieved by the board's decision to deny an application for a license under this rule may request a contested case hearing. A request for such a contested case hearing will be granted only if the board receives the request within 30 days of issuance of the board's decision.

[ARC 7865C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 543D and 272C and 2019 Iowa Acts, House File 288.

[Filed ARC 7865C (Notice ARC 7275C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 14
CERTIFIED GENERAL APPRAISER
EDUCATION REQUIREMENTS
Rescinded IAB 5/20/09, effective 6/24/09

CHAPTER 15
SUPERVISOR RESPONSIBILITIES
Rescinded **ARC 7850C**, IAB 4/17/24, effective 5/22/24

CHAPTER 16
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES
Rescinded **ARC 7855C**, IAB 4/17/24, effective 5/22/24

CHAPTER 17
SUPERINTENDENT SUPERVISION STANDARDS AND PROCEDURES
Rescinded **ARC 7856C**, IAB 4/17/24, effective 5/22/24

CHAPTER 18
WAIVERS
Rescinded **ARC 7857C**, IAB 4/17/24, effective 5/22/24

CHAPTER 19
INVESTIGATORY SUBPOENAS
Rescinded **ARC 7858C**, IAB 4/17/24, effective 5/22/24

CHAPTER 20
CONTESTED CASES
Rescinded **ARC 7859C**, IAB 4/17/24, effective 5/22/24

CHAPTER 21
DENIAL OF ISSUANCE OR RENEWAL, SUSPENSION, OR REVOCATION OF LICENSE FOR
NONPAYMENT OF CHILD SUPPORT OR STATE DEBT
Rescinded **ARC 7860C**, IAB 4/17/24, effective 5/22/24

CHAPTER 22
PETITION FOR RULE MAKING
Rescinded **ARC 7861C**, IAB 4/17/24, effective 5/22/24

CHAPTER 23
DECLARATORY ORDERS
Rescinded **ARC 7862C**, IAB 4/17/24, effective 5/22/24

CHAPTER 24
SALES AND LEASES OF GOODS AND SERVICES
Rescinded **ARC 7863C**, IAB 4/17/24, effective 5/22/24

CHAPTER 25
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded **ARC 7864C**, IAB 4/17/24, effective 5/22/24

CHAPTER 26
MILITARY SERVICE, VETERAN RECIPROCITY, AND LICENSURE OF PERSONS LICENSED
IN OTHER JURISDICTIONS
Rescinded **ARC 7865C**, IAB 4/17/24, effective 5/22/24

CHAPTER 27
IMPAIRED LICENSEE REVIEW COMMITTEE
AND IMPAIRED LICENSEE RECOVERY PROGRAM
Rescinded **ARC 7866C**, IAB 4/17/24, effective 5/22/24

CHAPTER 28
SOCIAL SECURITY NUMBERS AND PROOF OF LEGAL PRESENCE
Rescinded **ARC 7867C**, IAB 4/17/24, effective 5/22/24

CHAPTER 29
VENDOR APPEALS
Rescinded **ARC 7868C**, IAB 4/17/24, effective 5/22/24

UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199]
under the “umbrella” of Commerce Department[181] by 1986 Iowa Acts, Senate File 2175, section 740.

CHAPTER 1

ORGANIZATION AND OPERATION

- 1.1(17A,474) Purpose
- 1.2(17A,474) Scope of rules
- 1.3(17A,474,476) Waivers
- 1.4(17A,474) Duties of the board
- 1.5(17A,474) Organization
- 1.6(68B) Consent for the sale or lease of goods and services
- 1.7 Reserved
- 1.8(17A,474) Matters applicable to all proceedings
- 1.9(22) Public information and inspection of records

CHAPTER 2

Reserved

CHAPTER 3

RULEMAKING

- 3.1(17A,474,476) Purpose and scope
- 3.2(17A,474,476) Initial stakeholder input
- 3.3(17A,474,476) Petition for adoption of rules
- 3.4(17A,474,476) Commencement of proceedings
- 3.5(17A,474,476) Rulemaking oral presentation
- 3.6(17A,474) Review of rules

CHAPTER 4

DECLARATORY ORDERS

- 4.1(17A) Petition for declaratory order
- 4.2(17A) Intervention
- 4.3(17A) Briefs
- 4.4(17A) Service and filing of petitions
- 4.5(17A) Informal meeting
- 4.6(17A) Refusal to issue order
- 4.7(17A) Effect of a declaratory order

CHAPTER 5

Reserved

CHAPTER 6

COMPLAINT PROCEDURES

- 6.1(476) General inquiries
- 6.2(476) Informal complaint procedures
- 6.3(476) Processing the informal complaint
- 6.4(476) Proposed resolution of an informal complaint
- 6.5(476) Initiating formal complaint proceedings
- 6.6(476) Applicable procedures
- 6.7(476) Record
- 6.8(476) Special procedures for complaints alleging unauthorized changes in telecommunications services

CHAPTER 7
PRACTICE AND PROCEDURE

- 7.1(17A,474,476) Scope and applicability
- 7.2(17A,476) Definitions
- 7.3(17A,476) Presiding officers
- 7.4(17A,474,476) General information
- 7.5(17A,476) Time requirements
- 7.6(17A,476) Electronic proceedings
- 7.7(17A,476) Electronic information
- 7.8(17A,476) Delivery of notice of hearing
- 7.9(17A,476) Pleadings and answers
- 7.10(17A,476) Prefiled testimony and exhibits
- 7.11(17A,476) Documentary evidence in books and materials
- 7.12(17A,476) Motions
- 7.13(17A,476) Intervention
- 7.14(17A,476) Consolidation and severance
- 7.15(17A,476) Discovery
- 7.16(17A,476) Subpoenas
- 7.17(17A,476) Prehearing or scheduling conference
- 7.18(17A,476) Settlements
- 7.19(17A,476) Stipulations
- 7.20(17A,476) Investigations
- 7.21(17A,476) Withdrawals
- 7.22(17A,476) Ex parte communication
- 7.23(17A,476) Hearings
- 7.24(17A,476) Reopening record
- 7.25(17A,476) Interlocutory appeals
- 7.26(17A,476) Appeals to board from a proposed decision of a presiding officer
- 7.27(17A,476) Rehearing and reconsideration
- 7.28(17A,476) Stay of agency decision
- 7.29(17A,476) Emergency adjudicative proceedings

CHAPTER 8
Reserved

CHAPTER 9
RESTORATION OF AGRICULTURAL LANDS DURING AND AFTER PIPELINE
CONSTRUCTION

- 9.1(479,479B) General information
- 9.2(479,479B) Filing of land restoration plans
- 9.3(479,479B) Procedure for review of plan
- 9.4(479,479B) Staking and clearing of agricultural land
- 9.5(479,479B) Restoration of agricultural lands
- 9.6(479,479B) Designation of a pipeline company point of contact for landowner inquiries or claims
- 9.7(479,479B) Separate agreements
- 9.8(479,479B) Notice of violation and halting construction
- 9.9(479,479B) Enforcement
- 9.10(479,479B) Project completion
- 9.11(479,479B) Document submittal

CHAPTER 10

INTRASTATE GAS PIPELINES AND UNDERGROUND GAS STORAGE

10.1(479)	General information
10.2(479)	Informational meetings
10.3(479)	Petition for permit
10.4(479)	Notice of hearing
10.5(479)	Objections
10.6(479)	Hearing
10.7(479)	Pipeline permit
10.8(479)	Renewal permits
10.9(479)	Amendment of permits
10.10(479)	Fees and expenses
10.11(479)	Inspections
10.12(479)	Standards for construction, operation and maintenance
10.13(479)	Crossings of highways, railroads, and rivers
10.14(479)	Transmission line factors
10.15(479)	Reports to federal agencies
10.16(479)	Reportable changes to pipelines under permit
10.17(479)	Sale or transfer of permit
10.18(479)	Termination of petition for pipeline permit proceedings
10.19(479)	Gathering line filing requirements

CHAPTER 11

ELECTRIC LINES

11.1(478)	General information
11.2(478)	Definitions
11.3(478)	Route selection
11.4(478)	Informational meetings
11.5(478)	Petition for a new franchise
11.6(478)	Petition for an amendment to a franchise
11.7(478)	Petition for the abbreviated franchise process
11.8(478)	Petition for extension of franchise
11.9(478)	Additional requirements
11.10(478)	Notices
11.11(478)	Common and joint use
11.12(478)	Termination of franchise petition proceedings
11.13(478)	Fees and expenses
11.14(478)	Federally registered planning authority transmission projects

CHAPTER 12

Reserved

CHAPTER 13

HAZARDOUS LIQUID PIPELINES AND UNDERGROUND STORAGE

13.1(479B)	General information
13.2(479B)	Informational meetings
13.3(479B)	Petition for permit
13.4(479B)	Notice of hearing
13.5(479B)	Objections
13.6(479B)	Hearing
13.7(479B)	Pipeline permit
13.8(479B)	Renewal permits
13.9(479B)	Amendment of permits

13.10(479B)	Fees and expenses
13.11(479B)	Land restoration
13.12(479B)	Crossings of highways, railroads, and rivers
13.13(479B)	Reportable changes to pipelines under permit
13.14(479B)	Sale or transfer of permit
13.15(479B)	Reports to federal agencies
13.16(479B)	Termination of petition for pipeline permit proceedings

CHAPTER 14
ELECTRONIC FILING

14.1(17A,476)	Purpose
14.2(17A,476)	Scope and applicability of electronic filing requirement
14.3(17A,476)	Definitions
14.4(17A,476)	Exceptions; number of paper copies required
14.5(17A,476)	Electronic filing procedures and required formats
14.6(17A,476)	Registration
14.7(17A,476)	Electronic file
14.8(17A,476)	Paper copies required
14.9(17A,476)	When electronic filings can be made; official filing date
14.10(17A,476)	Notice of system unavailability
14.11(17A,476)	Technical difficulties
14.12(17A,476)	Documents containing confidential material
14.13(17A,476)	Signatures
14.14(17A,476)	Original documents
14.15(17A,476)	Transcripts
14.16(17A,476)	Electronic service

*UTILITIES AND
TRANSPORTATION DIVISIONS*

CHAPTER 15
COGENERATION AND SMALL POWER PRODUCTION

15.1(476)	Definitions
15.2(476)	Scope
15.3(476)	Information to board
15.4(476)	Rate-regulated electric utility obligations under this chapter regarding qualifying facilities
15.5(476)	Rates for purchases from qualifying facilities by rate-regulated electric utilities
15.6(476)	Rates for sales to qualifying facilities and AEP facilities by rate-regulated utilities
15.7(476)	Additional services to be provided to qualifying facilities and AEP facilities by rate-regulated electric utilities
15.8(476)	Interconnection costs
15.9(476)	System emergencies
15.10(476)	Standards for interconnection, safety, and operating reliability
15.11(476)	Additional rate-regulated utility obligations regarding AEP facilities
15.12 to 15.16	Reserved
15.17(476)	Alternate energy purchase programs
15.18(476B)	Certification of eligibility for wind energy tax credits under Iowa Code chapter 476B
15.19(476C)	Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C
15.20(476B)	Applications for wind energy tax credits under Iowa Code chapter 476B

- 15.21(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C
- 15.22(476) Small wind innovation zones

CHAPTER 16
ACCOUNTING

- 16.1(476) Accounting—general information
- 16.2(476) Uniform systems of accounts—electric
- 16.3(476) Uniform systems of accounts—gas
- 16.4(476) Uniform systems of accounts—water
- 16.5(476) Uniform systems of accounts—telephone
- 16.6 Reserved
- 16.7(476) Filing of promotional practices
- 16.8(476) Compiling advertisements and expenses
- 16.9(476) Postemployment benefits other than pensions

CHAPTER 17
ASSESSMENTS

- 17.1(475A,476,546) Purpose
- 17.2(475A,476) Definitions
- 17.3(476) Expenses to be included in direct assessments
- 17.4(476) Direct assessments under Iowa Code section 476.10
- 17.5(476) Reporting of operating revenues
- 17.6(475A,476) Compilation and billing of assessment
- 17.7(476) Funding of Iowa energy center and center for global and regional environmental research
- 17.8(476) Assessments under Iowa Code section 476.95B
- 17.9(477C) Assessments of expenses for dual party relay service program and equipment distribution program
- 17.10(475A,476) Objection procedures
- 17.11(476,477C) Refunds

CHAPTER 18
UTILITY RECORDS

- 18.1(476) Definitions
- 18.2(476) Location of records
- 18.3(476) Availability of records
- 18.4(476) Electric utilities other than rural electric cooperatives
- 18.5(476) Rural electric cooperatives
- 18.6(476) Gas utilities
- 18.7(476) Water, sanitary sewage, and storm water drainage utilities

CHAPTER 19
SERVICE SUPPLIED BY GAS UTILITIES

- 19.1(476) General information
- 19.2(476) Records, reports, and tariffs
- 19.3(476) General service requirements
- 19.4(476) Customer relations
- 19.5(476) Engineering practice
- 19.6(476) Metering
- 19.7(476) Standards of quality of service
- 19.8(476) Safety
- 19.9 Reserved
- 19.10(476) Purchased gas adjustment (PGA)

19.11(476)	Periodic review of gas procurement practices
19.12(476)	Flexible rates
19.13(476)	Transportation service
19.14(476)	Certification of competitive natural gas providers and aggregators
19.15(476)	Customer contribution fund
19.16(476)	Reserve margin
19.17(476)	Incident notification and reports
19.18(476)	Capital infrastructure investment automatic adjustment mechanism

CHAPTER 20

SERVICE SUPPLIED BY RATE-REGULATED ELECTRIC UTILITIES

20.1(476)	General information
20.2(476)	Records, reports, and tariffs
20.3(476)	General service requirements
20.4(476)	Customer relations
20.5(476)	Engineering practice
20.6(476)	Metering
20.7(476)	Standards of quality of service
20.8(476)	Safety
20.9(476)	Electric energy automatic adjustment
20.10(476)	Ratemaking standards
20.11(476)	Customer notification of peaks in electric energy demand
20.12	Reserved
20.13(476)	Periodic electric energy supply and cost review [476.6(16)]
20.14(476)	Flexible rates
20.15(476)	Customer contribution fund
20.16(476)	Exterior flood lighting
20.17(476)	Ratemaking treatment of emission allowances
20.18(476,478)	Service reliability requirements for electric utilities
20.19(476,478)	Notification of outages
20.20(476)	Electric vehicle charging service
20.21(476)	Transmission cost adjustment (TCA)

CHAPTER 21

SERVICE SUPPLIED BY WATER, SANITARY SEWAGE, AND STORM WATER DRAINAGE UTILITIES

DIVISION I GENERAL PROVISIONS

21.1(476)	Application of rules
21.2(476)	Records and reports for water, sanitary sewage, and storm water drainage utilities

DIVISION II WATER UTILITIES

21.3(476)	General water service requirements
21.4(476)	Customer relations for water service
21.5(476)	Engineering practice for water service
21.6(476)	Meter testing for water service
21.7(476)	Standards of quality of water service
21.8(476)	Applications for water costs for fire protection services
21.9(476)	Incident reports regarding water service
21.10(476)	Separate books for acquired water service assets

DIVISION III
SANITARY SEWAGE UTILITIES

- 21.11(476) General sanitary sewage disposal service requirements
- 21.12(476) Customer relations for sanitary sewage disposal service
- 21.13(476) Engineering practice for sanitary sewage disposal service
- 21.14(476) Meter testing for sanitary sewage disposal service
- 21.15(476) Standards of quality of sanitary sewage disposal service
- 21.16(476) Incident reports regarding sanitary sewage disposal service
- 21.17(476) Separate books for acquired sanitary sewage disposal service assets

DIVISION IV
STORM WATER DRAINAGE UTILITIES

- 21.18(476) Standards of quality of storm water drainage service
- 21.19(476) Customer relations for storm water drainage service
- 21.20(476) Incident reports regarding storm water drainage service
- 21.21(476) Separate books for acquired storm water drainage service assets

CHAPTER 22

REGULATION OF TELECOMMUNICATIONS SERVICE

- 22.1(476) General information
- 22.2(476) Tariffs
- 22.3(476) Customer complaints
- 22.4(476) Intrastate access charge application, tariff procedures, and rates
- 22.5(476) Interexchange telecommunications service provider service and access
- 22.6(476) Alternative operator services
- 22.7(476) Service territories
- 22.8(476) Registration of telecommunications service providers
- 22.9(476) Unauthorized changes in telecommunications service

CHAPTER 23

ANNUAL REPORT

- 23.1(476) General information
- 23.2(476) Annual report requirements

CHAPTER 24

LOCATION AND CONSTRUCTION OF ELECTRIC POWER
GENERATING FACILITIES

- 24.1(476A) Authority, purpose, and policy
- 24.2(476A) Definitions
- 24.3(476A) Form of application, place of filing
- 24.4(476A) Application for a certificate—contents
- 24.5(476A) Initial board review: Application acceptance
- 24.6(476A) Procedural schedule
- 24.7(476A) Informational meeting
- 24.8(476A) Hearing procedure
- 24.9(476A) Separate hearings on separate issues
- 24.10(476A) Certification decision
- 24.11(476A) Site preparation
- 24.12(476A) Issuance of a certificate
- 24.13(476A) Exemptions from certification application; application for amendment for certificate: Contents
- 24.14(476A) Assessment of costs
- 24.15(476A) Waiver

CHAPTER 25
IOWA ELECTRICAL SAFETY CODE

- 25.1(476,476A,478) General information
- 25.2(476,476A,478) Iowa electrical safety code defined
- 25.3(476,478) Inspection and maintenance plans
- 25.4(476,478) Correction of problems found during inspections and pole attachment procedures
- 25.5(476,478) Accident reports

CHAPTER 26

RATE CASES, TARIFFS, AND RATE REGULATION ELECTION PRACTICE AND PROCEDURE

- 26.1(17A,476) Scope
- 26.2(17A,476) Definitions
- 26.3(17A,476) Tariffs required
- 26.4(17A,476) General rate increase applications filed pursuant to Iowa Code section 476.6
- 26.5(17A,476) Compliance filings and tariffs
- 26.6(17A,476) Subsequent proceeding in rate case proceedings based upon a future test year
- 26.7(476) Rate case expense
- 26.8(476) Procedural schedule in Iowa Code section 476.6 proceedings
- 26.9(17A,476) Consumer comment meetings in Iowa Code section 476.6 general rate case proceedings
- 26.10(476) Switching from a future test year to a historic test year
- 26.11(476) Rate proceedings for small utilities
- 26.12(17A,476) Applications pursuant to Iowa Code section 476.6 that are not general rate increase applications
- 26.13(17A,476) Rate investigation pursuant to Iowa Code section 476.3
- 26.14(17A,476) Applications pursuant to Iowa Code section 476.7
- 26.15(17A,476) Proposal of settlements
- 26.16(476) Rate regulation election—electric cooperative corporations and associations

CHAPTER 27

REGULATION OF ELECTRIC COOPERATIVES AND MUNICIPAL ELECTRIC UTILITIES
UNDER IOWA CODE CHAPTER 476

- 27.1(476) General information
- 27.2(476) Assigned area of service and maps
- 27.3(476) Customer relations
- 27.4(476) Disconnection of service
- 27.5(476) Engineering practice
- 27.6(476) Metering
- 27.7(476) Standards of quality of service
- 27.8(476) Safety
- 27.9(476) Customer contribution fund
- 27.10(476,478) Service reliability requirements for electric utilities
- 27.11(476,478) Notification of outages
- 27.12(476) Electric vehicle charging service
- 27.13(476) Exterior flood lighting

CHAPTER 28

Reserved

CHAPTER 29

MANAGEMENT EFFICIENCY EVALUATION

- 29.1(476) Policy and purpose
- 29.2(476) Efficiency considered in a complaint or rate case proceeding

- 29.3(476) Management efficiency evaluation
- 29.4(476) Rewards and penalties

CHAPTER 30

RENEWABLE ENERGY PERCENTAGE VERIFICATION

- 30.1(476) General information
- 30.2(476) Process for verification
- 30.3(476) Reasonableness and prudence of REC retirement
- 30.4(476) Renewable energy claims

CHAPTER 31

ACCESS TO AFFILIATE RECORDS, REQUIREMENTS FOR ANNUAL FILINGS, AND ASSET AND SERVICE TRANSFERS

- 31.1(476) Applicability and definition of terms
- 31.2(476) Availability of records
- 31.3(476) Annual filing
- 31.4 Reserved
- 31.5(476) Verified copies and confidential treatment
- 31.6(476) Comparable information
- 31.7(476) Standards for costing service transfers between regulated operations and nonregulated affiliates
- 31.8(476) Standards for costing asset transfers between regulated operations and non-regulated affiliates valued at less than \$2 million
- 31.9(476) Waivers

CHAPTER 32

REORGANIZATION

- 32.1(476) Applicability and definition of terms
- 32.2(476) Substantial part of a public utility's assets
- 32.3(476) Declaratory orders
- 32.4(476) Proposal for reorganization—filing requirements
- 32.5(476) Effective date
- 32.6(476) Insufficient filing
- 32.7(476) Additional information authorized
- 32.8(476) Waivers
- 32.9(476) Procedural matters
- 32.10(388) Approval of appraiser for municipal utilities

CHAPTER 33

NONUTILITY SERVICES—RECORDKEEPING AND COST ALLOCATIONS

- 33.1(476) Applicability
- 33.2(476) Definitions
- 33.3(476) Availability of records
- 33.4(476) Costing methodology
- 33.5(476) Cost allocation manuals
- 33.6(476) Standards for costing service transfers within a regulated subsidiary or utility
- 33.7(476) Standards for costing asset transfers within a regulated subsidiary or utility

CHAPTER 34

NONUTILITY SERVICE

- 34.1(476) Statement of purpose
- 34.2(476) Definitions

- 34.3(476) Charges permitted
- 34.4(476) Procedures for utilization of billing and collection system

CHAPTER 35

ENERGY EFFICIENCY AND DEMAND RESPONSE PLANNING AND REPORTING FOR NATURAL GAS AND ELECTRIC UTILITIES REQUIRED TO BE RATE-REGULATED

- 35.1(476) Authority and purpose
- 35.2(476) Definitions
- 35.3(476) Energy efficiency and demand response plan filing
- 35.4(476) Assessment of potential and collaboration
- 35.5(476) Energy efficiency and demand response plan requirements
- 35.6(476) Contested case proceeding
- 35.7(476) Exemptions from participation
- 35.8(476) Annual reporting requirements
- 35.9(476) Energy efficiency and demand response cost recovery
- 35.10(476) Modification of an approved plan
- 35.11(476) Prudence review
- 35.12(476) New structure energy conservation standards

CHAPTER 36

Reserved

CHAPTER 37

EQUIPMENT DISTRIBUTION PROGRAM

- 37.1(477C) Purpose
- 37.2(477C) Program structure
- 37.3(477C) Equipment
- 37.4(477C) Application process and eligibility
- 37.5(477C) Voucher system
- 37.6(477C) Complaints

CHAPTER 38

LOCAL EXCHANGE COMPETITION

- 38.1(476) General information
- 38.2 Reserved
- 38.3(476) Interconnection requirements
- 38.4(476) Unbundled facilities, services, features, functions, and capabilities
- 38.5(476) Cost standards
- 38.6(476) Terminating access charge complaints
- 38.7(476) Mediation and arbitration

CHAPTER 39

UNIVERSAL SERVICE

- 39.1(476) Authority and purpose
- 39.2(476) Definition of terms
- 39.3(476) Applying for designation as an eligible telecommunications carrier
- 39.4(476) Lifeline-only applicants
- 39.5(476) Service area
- 39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program)
- 39.7(476) Schedule of filings
- 39.8(476) Relinquishment of ETC designation

CHAPTER 40
COMPETITIVE BIDDING PROCESS

40.1(476)	General information
40.2(476)	Competitive resource acquisition procedure
40.3(476)	Utility-build or lease cost estimates
40.4(476)	Utility affiliate bids
40.5(476)	Request for proposals (RFP)
40.6(476)	Complaints

CHAPTER 41
RATEMAKING PRINCIPLES PROCEEDING

41.1(476)	Definitions
41.2(476)	Applicability and purpose
41.3(476)	Application for predetermined ratemaking principles; contents
41.4(476)	Coincident filing
41.5(476)	Acquisition of a water, sanitary sewage, or storm water utility
41.6(476)	Waiver

CHAPTER 42
CROSSING OF RAILROAD RIGHTS-OF-WAY

42.1(476)	Definitions
42.2(476)	Applicability and purpose
42.3(476)	General notice and specification exhibit requirements and payment of fee
42.4(476)	Emergency notice and repairs
42.5(476)	Relocation of public utility facilities
42.6(476)	Engineering standards for electric and communications lines
42.7(476)	Engineering standards for pipelines
42.8(476)	Liability
42.9(476)	Insurance
42.10(476)	Removal of equipment
42.11(476)	Assignment
42.12(476)	Prohibition against mechanic's liens
42.13(476)	Taxes
42.14(476)	Protection of signal systems
42.15(476)	Safety regulations
42.16(476)	Recording
42.17(17A,476)	Complaints and petitions for relief—general information
42.18(17A,476)	Filing of complaint or petition
42.19(17A,476)	Presiding officer
42.20(17A,476)	Answer
42.21(17A,476)	Parties and appearances
42.22(17A,476)	Procedural order and notice of hearing
42.23(17A,476)	Discovery
42.24(17A,476)	Hearing procedures
42.25(17A,476)	Decision

CHAPTER 43
Reserved

CHAPTER 44
CERTIFICATES OF FRANCHISE AUTHORITY FOR
CABLE AND VIDEO SERVICE

44.1(17A,476,477A)	Authority and purpose
44.2(17A,476,477A)	Definitions
44.3(17A,476,477A)	Certificate of franchise authority
44.4(17A,476,477A)	Notice to municipality and incumbent cable provider
44.5(17A,476,477A)	Conversion of municipal franchise by incumbent cable provider
44.6(17A,476,477A)	Revocation of certificates, termination of service, reinstatement of previously terminated municipal franchises
44.7(17A,476,477A)	Renewal of certificate of franchise authority
44.8(17A,476,477A)	Assessment of board costs

CHAPTER 45
ELECTRIC INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES

45.1(476)	Definitions
45.2(476)	Scope
45.3(476)	Technical standards
45.4(476)	Interconnection requests
45.5(476)	General requirements
45.6(476)	Lab-certified equipment
45.7(476)	Determining the review level
45.8(476)	Level 1 expedited review
45.9(476)	Level 2 expedited review
45.10(476)	Level 3 expedited review
45.11(476)	Level 4 review
45.12(476)	Disputes
45.13(476)	Records and reports

CHAPTER 8
CIVIL PENALTIES

[Prior to 10/8/86, Commerce Commission[250]]

Rescinded **ARC 7836C**, IAB 4/17/24, effective 5/22/24

EDUCATION DEPARTMENT[281]

Created by 1986 Iowa Acts, chapter 1245, section 1401.
 Prior to 9/7/88, see Public Instruction Department[670]
 (Replacement pages for 9/7/88 published in 9/21/88 IAC)

TITLE I
*GENERAL INFORMATION—
 DEPARTMENT OPERATIONS*

CHAPTER 1
 ORGANIZATION AND OPERATION

- 1.1(17A,256) State board of education
- 1.2(17A,256) Student member of the state board of education
- 1.3(17A,256) Director of the department of education
- 1.4(17A,256) Department of education

CHAPTER 2
 AGENCY PROCEDURE FOR RULEMAKING
 AND PETITIONS FOR RULEMAKING

- 2.1(17A) Incorporation by reference
- 2.2(17A) Contact information
- 2.3(17A) Electronic submissions

CHAPTER 3
 DECLARATORY ORDERS

- 3.13(17A) Additional information concerning declaratory orders

CHAPTER 4
 WAIVERS FROM ADMINISTRATIVE RULES

- 4.1(17A) Definitions
- 4.2(17A) General
- 4.3(17A) Criteria for waiver
- 4.4(17A) Filing of petition
- 4.5(17A) Content of petition
- 4.6(17A) Additional information
- 4.7(17A) Notice
- 4.8(17A) Hearing procedures
- 4.9(17A) Ruling
- 4.10(17A) Public availability
- 4.11(17A) After issuance of a waiver
- 4.12(17A) Exception

CHAPTER 5
 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

- 5.1(22,256) Exceptions and additions
- 5.2(22,256) Disclosures without the consent of the subject
- 5.3(22,256) Availability of records
- 5.4(22,256) Personally identifiable information
- 5.5(22,256) Other groups of records
- 5.6(22,256) Applicability

CHAPTER 6
 APPEAL PROCEDURES

- 6.1(290) Scope of chapter
- 6.2(256,290,17A) Definitions
- 6.3(290,17A) Incorporation by reference

6.4(290,17A)	Manner of appeal
6.5(17A)	Record
6.6(290,17A)	Decision and appeal
6.7(256,17A)	Specific programs

CHAPTER 7
CRITERIA FOR GRANTS

7.1(256,17A)	General
7.2(256,17A)	Definitions
7.3(256,17A)	Grant application contents
7.4(256,17A)	Review process
7.5(290,17A)	Appeal of grant denial or termination

CHAPTERS 8 to 10
Reserved

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 11
Reserved

CHAPTER 12
GENERAL ACCREDITATION STANDARDS

12.1(256)	General standards
12.2(256)	Definitions
12.3(256)	Administration
12.4(256)	School personnel
12.5(256)	Education program
12.6(256)	Activity program
12.7(256,284,284A)	Professional development
12.8(256)	Accountability for student achievement
12.9(256)	Flexible student and school support program
12.10(256)	Independent accrediting agencies
12.11(256)	High-quality standards for computer science

CHAPTER 13
Reserved

CHAPTER 14
SCHOOL HEALTH SERVICES

DIVISION I
IN GENERAL

14.1(256)	Medication administration
14.2(256)	Special health services
14.3(256)	School district and accredited nonpublic school stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer voluntary supply
14.4(279)	Suicide prevention, identification of adverse childhood experiences, and strategies to mitigate toxic stress response
14.5(256,280)	Severability

DIVISION II
COMPREHENSIVE HEALTHY AND SAFE LEARNING ENVIRONMENTS

14.6(279)	Purpose and objectives: comprehensive healthy and safe learning environments
14.7(279)	Definitions

14.8(279)	Classroom clears
14.9(279)	Required parent/guardian notifications and responses
14.10(279)	Documentation and reporting
14.11(256)	Crisis response
14.12(256)	Prevention of classroom behaviors that present an imminent threat
14.13(256)	Therapeutic classroom
14.14(256)	Therapeutic classroom—claims
14.15(256,279,280)	Required training
14.16(256)	Department responsibilities, evidence-based standards, guidelines and expectations
14.17 to 14.19	Reserved

DIVISION III

SCHOOL BEHAVIORAL HEALTH SCREENING AND TELEHEALTH

14.20(256B,280A)	Definitions
14.21(280A)	Behavioral health screenings in school settings
14.22(280A)	Establishment of provider-patient relationship for telehealth in school setting
14.23(280A)	Behavioral health services provided via telehealth in a school setting

CHAPTER 15

ONLINE AND VIRTUAL LEARNING

15.1(256)	Definitions
15.2(256)	Telecommunications for instruction
15.3(256)	Online learning—private providers
15.4(256)	Online learning provided by area education agencies
15.5(256)	Online learning program provided by a school district—online schools
15.6(256)	Online learning provided by a school district or accredited nonpublic school—courses
15.7(256)	Open enrollment
15.8(256)	Online learning—access by students receiving competent private instruction
15.9(256,256B)	Online learning—students with disabilities
15.10(256)	Department general supervision of telecommunications and online learning

CHAPTER 16

STATEWIDE VOLUNTARY PRESCHOOL PROGRAM

16.1(256C)	Definitions
16.2(256C)	Preschool program standards
16.3(256C)	Collaboration
16.4(256C)	Applications for funding
16.5(256C)	Application process
16.6(256C)	Removal of approval
16.7(256C)	Appeal of application denial, termination, or removal of approval
16.8(256C)	Finance
16.9(256C)	Accountability

CHAPTER 17

OPEN ENROLLMENT AND OTHER ENROLLMENT OPTIONS

DIVISION I

OPEN ENROLLMENT

17.1(282)	Definitions
17.2(282)	Application process
17.3(282)	Court-ordered desegregation plans
17.4(282)	Open enrollment for kindergarten or certain prekindergarten programs
17.5(282)	Open enrollment and online coursework
17.6(282)	Limitations on open enrollment requests

- 17.7(282) Provisions applicable to parents/guardians and students
- 17.8(282) Transportation
- 17.9(282) Method of finance
- 17.10(282) Special education students

DIVISION II

INTRA-DISTRICT SCHOOL CHOICE UNDER IOWA LAW

- 17.11(279) General
- 17.12(279) Intra-district transfers due to bullying and harassment

DIVISION III

UNSAFE SCHOOL CHOICE OPTION UNDER FEDERAL LAW

- 17.13(20USC7912) Definitions
- 17.14(20USC7912) Whole school option
- 17.15(20USC7912) Individual student option
- 17.16(20USC7912) District reporting

CHAPTER 18
SCHOOL FEES

- 18.1(256) Overview
- 18.2(256) Fee policy
- 18.3(256) Eligibility for waiver, partial waiver or temporary waiver of student fees
- 18.4(256) Fees covered

CHAPTER 19
CHARTER SCHOOLS

- 19.1(256E) Purpose
- 19.2(256E) Establishment of charter schools
- 19.3(256E) Purpose of a charter school
- 19.4(256E) Definitions
- 19.5(256E) Department duty to monitor
- 19.6(256E) General application provisions
- 19.7(256E) School board-state board model
- 19.8(256E) Founding group-state board model
- 19.9(256E) Charter school contract
- 19.10(256E) Performance framework
- 19.11(256E) General operating powers and duties
- 19.12(256E) Funding
- 19.13(256E) Oversight—corrective action—contract renewal—revocation
- 19.14(256E) Procedures for charter school closure—student enrollment
- 19.15(256E) Reports
- 19.16(256E) Operation of existing charter schools

CHAPTER 20

STUDENTS FIRST ACT—EDUCATION SAVINGS ACCOUNTS

- 20.1(257) Definitions
- 20.2(257) Eligible students
- 20.3(257) Application process
- 20.4(257) Administration, accountability, monitoring, and enforcement

TITLE III
COMMUNITY COLLEGES

CHAPTER 21
COMMUNITY COLLEGES

DIVISION I
APPROVAL STANDARDS

21.1(260C)	Definitions
21.2(260C)	Administration
21.3(260C)	Associate of arts and associate of science transfer major programs
21.4(260C)	Curriculum and evaluation
21.5(260C)	Nonreimbursable facilities
21.6 to 21.19	Reserved

DIVISION II
INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

21.20(321J)	Course
21.21(321J)	Tuition fee established
21.22(321J)	Administrative fee established
21.23(321J)	Advisory committee
21.24 to 21.30	Reserved

DIVISION III
STATE COMMUNITY COLLEGE FUNDING PLAN

21.31(260C)	General
21.32 to 21.40	Reserved

DIVISION IV
APPRENTICESHIP PROGRAM

21.41(260C)	Definitions
21.42(260C)	Apprenticeship programs
21.43 to 21.49	Reserved

DIVISION V
MISCELLANEOUS PROVISIONS

21.50(260C,322)	Used motor vehicle dealer education program
21.51 to 21.59	Reserved

DIVISION VI
COMMUNITY COLLEGE ACCREDITATION

21.60(260C)	Scope
21.61(260C)	Accreditation components and criteria—Higher Learning Commission
21.62(260C)	Accreditation components and criteria—additional state standards
21.63(260C)	Accreditation process

CHAPTER 22
SENIOR YEAR PLUS PROGRAM

DIVISION I
GENERAL PROVISIONS

22.1(261E)	Scope
22.2(261E)	Student eligibility
22.3(261E)	Teacher eligibility, responsibilities
22.4(261E)	Institutional eligibility, responsibilities
22.5	Reserved

DIVISION II
DEFINITIONS

22.6(261E) Definitions

DIVISION III
ADVANCED PLACEMENT PROGRAM

22.7(261E) School district obligations
22.8(261E) Obligations regarding registration for advanced placement examinations
22.9 and 22.10 Reserved

DIVISION IV
CONCURRENT ENROLLMENT PROGRAM

22.11(261E) Applicability
22.12 Reserved
22.13(261E) Accredited nonpublic school concurrent enrollment option

DIVISION V
POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

22.14(261E) Availability
22.15(261E) Notification
22.16(261E) Student eligibility
22.17(261E) Eligible postsecondary courses
22.18(261E) Application process
22.19(261E) Credits
22.20(261E) Transportation
22.21(261E) Tuition payments
22.22(261E) Tuition reimbursements and adjustments
22.23 Reserved

DIVISION VI
CAREER ACADEMIES

22.24(261E) Career academies
22.25 Reserved

DIVISION VII
REGIONAL ACADEMIES

22.26(261E) Regional academies
22.27(261E) Waivers for certain regional academies

DIVISION VIII
INTERNET-BASED AND ICN COURSEWORK

22.28(261E) Internet-based coursework
22.29(261E) ICN-based coursework
22.30 and 22.31 Reserved

DIVISION IX
PROJECT LEAD THE WAY

22.32(261E) Project lead the way

DIVISION X
SUMMER COLLEGE CREDIT PROGRAM

22.33(261E) Summer college credit program

CHAPTERS 23 and 24
Reserved

CHAPTER 25
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM; GAP TUITION
ASSISTANCE PROGRAM

DIVISION I
GENERAL PROVISIONS

25.1(260H,260I) Definitions

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

25.2(260) PACE program
25.3(260H) Program component requirements
25.4(260H) Pipeline program
25.5(260H) Career pathways and bridge curriculum development program
25.6(260H) Pathway navigators

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

25.7(260I) Gap tuition assistance program
25.8(260I) Initial assessment
25.9(260I) Program interview
25.10(260I) Participation requirements
25.11(260I) Oversight

TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTER 26
Reserved

CHAPTER 27
WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

27.1(260C) Definitions
27.2(260C) Funds allocation
27.3(260C) Community college workforce and economic development fund plans and progress reports
27.4(260C) Use of funds
27.5(260C) Annual plan and progress report approval

CHAPTERS 28 to 30
Reserved

TITLE V
NONTRADITIONAL STUDENTS

CHAPTER 31
PRIVATE INSTRUCTION AND DUAL ENROLLMENT

31.1(299,299A) Purpose and definitions
31.2(299) Reports as to competent private instruction
31.3(299,299A) Duties of privately retained licensed practitioners
31.4(299,299A) Duties of licensed practitioners, home school assistance program
31.5(299A) School district duties related to competent private instruction
31.6(299A) Dual enrollment
31.7(299) Open enrollment
31.8(299A) Baseline evaluation and annual assessment
31.9(299A) Reporting assessment results
31.10(299A) Special education students

- 31.11(299,299A) Independent private instruction
- 31.12(299,299A) Miscellaneous provisions

CHAPTER 32

HIGH SCHOOL EQUIVALENCY DIPLOMA

- 32.1(259A) Definitions
- 32.2(259A) Eligibility to participate
- 32.3(259A) By whom administered
- 32.4(259A) Diploma, transcript, verification fees
- 32.5(259A) Application, course, and testing fees
- 32.6(259A) High school equivalency diploma program based on a department-approved test
- 32.7(259A) High school equivalency diploma program based on attainment of high school credits
- 32.8(259A) High school equivalency diploma program based on postsecondary degree

CHAPTER 33

EDUCATING HOMELESS CHILDREN AND YOUTH

- 33.1(256) Definitions
- 33.2(256) Responsibilities of school districts
- 33.3(256) School records; student transfers
- 33.4(256) Immunization
- 33.5(256) Waiver of fees and charges encouraged
- 33.6(256) Waiver of enrollment requirements encouraged; placement
- 33.7(256) Residency of homeless child or youth
- 33.8(256) Dispute resolution
- 33.9(256) Transportation of homeless children and youth
- 33.10(256) School services

CHAPTER 34

FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS OR MENTAL HEALTH INSTITUTES

- 34.1(282) Scope
- 34.2(282) Definitions
- 34.3(282) General principles
- 34.4(282) Notification
- 34.5(218) Program submission and approval
- 34.6(218) Budget submission and approval
- 34.7(282) Payments
- 34.8(282) Accounting for actual program costs
- 34.9(282) AEA services
- 34.10(282) Postsecondary credit courses

CHAPTER 35

EDUCATIONAL AND PROGRAM STANDARDS FOR CHILDREN'S RESIDENTIAL FACILITIES

- 35.1(282) General
- 35.2(282) Definitions
- 35.3(282) Establishing an appropriate educational program
- 35.4(282) Notices, fees, and reporting
- 35.5(282) Provision of appropriate educational services

TITLE VI
INTERSCHOLASTIC COMPETITION

CHAPTER 36
EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

- 36.1(280) Definitions
- 36.2(280) Registered organizations
- 36.3(280) Filings by organizations
- 36.4(280) Executive board
- 36.5(280) Fiscal provisions
- 36.6(280) Appearance before state board
- 36.7(280) Interscholastic athletics
- 36.8(280) Eligibility requirements
- 36.9(280) Executive board review
- 36.10(280) Appeals to director
- 36.11(280) Organization policies
- 36.12(280) Eligibility in situations of district organization change
- 36.13(280) Cooperative student participation

CHAPTER 37
EXTRACURRICULAR ATHLETIC ACTIVITY
CONFERENCE FOR MEMBER SCHOOLS

- 37.1(280) General
- 37.2(280) Complaint to the director, department of education
- 37.3(280) Mediation
- 37.4(280) Resolution or recommendation of the mediation team
- 37.5(280) Decision; effective date

CHAPTERS 38 to 40
Reserved

TITLE VII
SPECIAL EDUCATION

CHAPTER 41
SPECIAL EDUCATION

DIVISION I
PURPOSE AND APPLICABILITY

- 41.1(256B,34CFR300) Purposes
- 41.2(256B,34CFR300) Applicability of this chapter

DIVISION II
DEFINITIONS

- 41.3(256B,34CFR300) Act
- 41.4(256B,273) Area education agency
- 41.5(256B,34CFR300) Assistive technology device
- 41.6(256B,34CFR300) Assistive technology service
- 41.7(256B,34CFR300) Charter school
- 41.8(256B,34CFR300) Child with a disability
- 41.9(256B,34CFR300) Consent
- 41.10(256B,34CFR300) Core academic subjects
- 41.11(256B,34CFR300) Day; business day; school day
- 41.12(256B,34CFR300) Educational service agency
- 41.13(256B,34CFR300) Elementary school
- 41.14(256B,34CFR300) Equipment

- 41.15(256B,34CFR300) Evaluation
- 41.16(256B,34CFR300) Excess costs
- 41.17(256B,34CFR300) Free appropriate public education
- 41.18 Reserved
- 41.19(256B,34CFR300) Homeless children
- 41.20(256B,34CFR300) Include
- 41.21(256B,34CFR300) Indian and Indian tribe
- 41.22(256B,34CFR300) Individualized education program
- 41.23(256B,34CFR300) Individualized education program team
- 41.24(256B,34CFR300) Individualized family service plan
- 41.25(256B,34CFR300) Infant or toddler with a disability
- 41.26(256B,34CFR300) Institution of higher education
- 41.27(256B,34CFR300) Limited English proficient
- 41.28(256B,34CFR300) Local educational agency
- 41.29(256B,34CFR300) Native language
- 41.30(256B,34CFR300) Parent
- 41.31(256B,34CFR300) Parent training and information center
- 41.32(256B,34CFR300) Personally identifiable
- 41.33(256B,34CFR300) Public agency; nonpublic agency; agency
- 41.34(256B,34CFR300) Related services
- 41.35 Reserved
- 41.36(256B,34CFR300) Secondary school
- 41.37(34CFR300) Services plan
- 41.38(34CFR300) Secretary
- 41.39(256B,34CFR300) Special education
- 41.40(34CFR300) State
- 41.41(256B,34CFR300) State educational agency
- 41.42(256B,34CFR300) Supplementary aids and services
- 41.43(256B,34CFR300) Transition services
- 41.44(34CFR300) Universal design
- 41.45(256B,34CFR300) Ward of the state
- 41.46 to 41.49 Reserved
- 41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals
- 41.51(256B,34CFR300) Other definitions applicable to this chapter
- 41.52 to 41.99 Reserved

DIVISION III
RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

- 41.100(256B,34CFR300) Eligibility for assistance
- 41.101(256B,34CFR300) Free appropriate public education (FAPE)
- 41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages
- 41.103(256B,34CFR300) FAPE—methods and payments
- 41.104(256B,34CFR300) Residential placement
- 41.105(256B,34CFR300) Assistive technology
- 41.106(256B,34CFR300) Extended school year services
- 41.107(256B,34CFR300) Nonacademic services
- 41.108(256B,34CFR300) Physical education
- 41.109(256B,34CFR300) Full educational opportunity goal (FEOG)
- 41.110(256B,34CFR300) Program options
- 41.111(256B,34CFR300) Child find
- 41.112(256B,34CFR300) Individualized education programs (IEPs)
- 41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices

- 41.114(256B,34CFR300) Least restrictive environment (LRE)
- 41.115(256B,34CFR300) Continuum of alternative services and placements
- 41.116(256B,34CFR300) Placements
- 41.117(256B,34CFR300) Nonacademic settings
- 41.118(256B,34CFR300) Children in public or private institutions
- 41.119(256B,34CFR300) Technical assistance and training activities
- 41.120(256B,34CFR300) Monitoring activities
- 41.121(256B,34CFR300) Procedural safeguards
- 41.122(256B,34CFR300) Evaluation
- 41.123(256B,34CFR300) Confidentiality of personally identifiable information
- 41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs
- 41.125 to 41.128 Reserved
- 41.129(256B,34CFR300) Responsibility regarding children in private schools
- 41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities
- 41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities
- 41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement
- 41.133(256,256B,34CFR300) Expenditures
- 41.134(256,256B,34CFR300) Consultation
- 41.135(256,256B,34CFR300) Written affirmation
- 41.136(256,256B,34CFR300) Compliance
- 41.137(256,256B,34CFR300) Equitable services determined
- 41.138(256,256B,34CFR300) Equitable services provided
- 41.139(256,256B,34CFR300) Location of services and transportation
- 41.140(256,256B,34CFR300) Due process complaints and state complaints
- 41.141(256,256B,34CFR300) Requirement that funds not benefit a private school
- 41.142(256,256B,34CFR300) Use of personnel
- 41.143(256,256B,34CFR300) Separate classes prohibited
- 41.144(256,256B,34CFR300) Property, equipment, and supplies
- 41.145(256B,34CFR300) Applicability of rules 281—41.146(256B,34CFR300) and 281—41.147(256B,34CFR300)
- 41.146(256B,34CFR300) Responsibility of department
- 41.147(256B,34CFR300) Implementation by department
- 41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue
- 41.149(256B,34CFR300) SEA responsibility for general supervision
- 41.150 Reserved
- 41.151(256B,34CFR300) Adoption of state complaint procedures
- 41.152(256B,34CFR300) Minimum state complaint procedures
- 41.153(256B,34CFR300) Filing a complaint
- 41.154(256B,34CFR300) Methods of ensuring services
- 41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility
- 41.156(256B,34CFR300) Personnel qualifications
- 41.157 to 41.159 Reserved
- 41.160(256B,34CFR300) Participation in assessments
- 41.161 Reserved
- 41.162(256B,34CFR300) Supplementation of state, local, and other federal funds
- 41.163(256B,34CFR300) Maintenance of state financial support
- 41.164 Reserved
- 41.165(256B,34CFR300) Public participation
- 41.166(256B,34CFR300) Rule of construction
- 41.167(256B,34CFR300) State advisory panel
- 41.168(256B,34CFR300) Advisory panel membership

- 41.169(256B,34CFR300) Advisory panel duties
- 41.170(256B,34CFR300) Suspension and expulsion rates
- 41.171 Reserved
- 41.172(256B,34CFR300) Access to instructional materials
- 41.173(256B,34CFR300) Overidentification and disproportionality
- 41.174(256B,34CFR300) Prohibition on mandatory medication
- 41.175 Reserved
- 41.176(256B) Special school provisions
- 41.177(256B) Facilities
- 41.178(256B) Materials, equipment and assistive technology
- 41.179 to 41.185 Reserved
- 41.186(256B,34CFR300) Assistance under other federal programs
- 41.187(256B) Research, innovation, and improvement
- 41.188 to 41.199 Reserved

DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL

- 41.200(256B,34CFR300) Condition of assistance
- 41.201(256B,34CFR300) Consistency with state policies
- 41.202(256B,34CFR300) Use of amounts
- 41.203(256B,34CFR300) Maintenance of effort
- 41.204(256B,34CFR300) Exception to maintenance of effort
- 41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years
- 41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA
- 41.207(256B,34CFR300) Personnel development
- 41.208(256B,34CFR300) Permissive use of funds
- 41.209(256B,34CFR300) Treatment of charter schools and their students
- 41.210(256B,34CFR300) Purchase of instructional materials
- 41.211(256B,34CFR300) Information for department
- 41.212(256B,34CFR300) Public information
- 41.213(256B,34CFR300) Records regarding migratory children with disabilities
- 41.214 to 41.219 Reserved
- 41.220(256B,34CFR300) Exception for prior local plans
- 41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility
- 41.222(256B,34CFR300) AEA or LEA and state agency compliance
- 41.223(256B,34CFR300) Joint establishment of eligibility
- 41.224(256B,34CFR300) Requirements for jointly establishing eligibility
- 41.225 Reserved
- 41.226(256B,34CFR300) Early intervening services
- 41.227 Reserved
- 41.228(256B,34CFR300) State agency eligibility
- 41.229(256B,34CFR300) Disciplinary information
- 41.230(256B,34CFR300) SEA flexibility
- 41.231 to 41.299 Reserved

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS

- 41.300(256B,34CFR300) Parental consent and participation
- 41.301(256B,34CFR300) Full and individual initial evaluations
- 41.302(256B,34CFR300) Screening for instructional purposes is not evaluation
- 41.303(256B,34CFR300) Reevaluations
- 41.304(256B,34CFR300) Evaluation procedures
- 41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations
- 41.306(256B,34CFR300) Determination of eligibility

- 41.307(256B,34CFR300) Specific learning disabilities
- 41.308(256B,34CFR300) Additional group members
- 41.309(256B,34CFR300) Determining the existence of a specific learning disability
- 41.310(256B,34CFR300) Observation
- 41.311(256B,34CFR300) Specific documentation for the eligibility determination
- 41.312(256B,34CFR300) General education interventions
- 41.313(256B,34CFR300) Systematic problem-solving process
- 41.314(256B,34CFR300) Progress monitoring and data collection
- 41.315 to 41.319 Reserved
- 41.320(256B,34CFR300) Definition of individualized education program
- 41.321(256B,34CFR300) IEP team
- 41.322(256B,34CFR300) Parent participation
- 41.323(256B,34CFR300) When IEPs must be in effect
- 41.324(256B,34CFR300) Development, review, and revision of IEP
- 41.325(256B,34CFR300) Private school placements by public agencies
- 41.326(256B,34CFR300) Other rules concerning IEPs
- 41.327(256B,34CFR300) Educational placements
- 41.328(256B,34CFR300) Alternative means of meeting participation
- 41.329(256B,34CFR300) Family support mentoring program
- 41.330 to 41.399 Reserved

DIVISION VI
ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION

- 41.400(256B,34CFR300) Shared responsibility
- 41.401(256B,34CFR300) Licensure (certification)
- 41.402(256B,273,34CFR300) Authorized personnel
- 41.403(256B) Paraprofessionals
- 41.404(256B) Policies and procedures required of all public agencies
- 41.405 Reserved
- 41.406(256B) Additional requirements of LEAs
- 41.407(256B,273,34CFR300) Additional requirements of AEAs
- 41.408(256B,273,34CFR300) Instructional services
- 41.409(256B,34CFR300) Support services
- 41.410(256B,34CFR300) Itinerant services
- 41.411(256B,34CFR300) Related services, supplementary aids and services
- 41.412(256B,34CFR300) Transportation
- 41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools
- 41.414 to 41.499 Reserved

DIVISION VII
PROCEDURAL SAFEGUARDS

- 41.500(256B,34CFR300) Responsibility of SEA and other public agencies
- 41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings
- 41.502(256B,34CFR300) Independent educational evaluation
- 41.503(256B,34CFR300) Prior notice by the public agency; content of notice
- 41.504(256B,34CFR300) Procedural safeguards notice
- 41.505(256B,34CFR300) Electronic mail
- 41.506(256B,34CFR300) Mediation
- 41.507(256B,34CFR300) Filing a due process complaint
- 41.508(256B,34CFR300) Due process complaint
- 41.509(256B,34CFR300) Model forms
- 41.510(256B,34CFR300) Resolution process
- 41.511(256B,34CFR300) Impartial due process hearing
- 41.512(256B,34CFR300) Hearing rights

- 41.513(256B,34CFR300) Hearing decisions
- 41.514(256B,34CFR300) Finality of decision
- 41.515(256B,34CFR300) Timelines and convenience of hearings
- 41.516(256B,34CFR300) Civil action
- 41.517(256B,34CFR300) Attorneys' fees
- 41.518(256B,34CFR300) Child's status during proceedings
- 41.519(256B,34CFR300) Surrogate parents
- 41.520(256B,34CFR300) Transfer of parental rights at age of majority
- 41.521 to 41.529 Reserved
- 41.530(256B,34CFR300) Authority of school personnel
- 41.531(256B,34CFR300) Determination of setting
- 41.532(256B,34CFR300) Appeal
- 41.533(256B,34CFR300) Placement during appeals and mediations
- 41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services
- 41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities
- 41.536(256B,34CFR300) Change of placement because of disciplinary removals
- 41.537(256B,34CFR300) State enforcement mechanisms
- 41.538 to 41.599 Reserved

DIVISION VIII

MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

- 41.600(256B,34CFR300) State monitoring and enforcement
- 41.601(256B,34CFR300) State performance plans and data collection
- 41.602(256B,34CFR300) State use of targets and reporting
- 41.603(256B,34CFR300) Department review and determination regarding public agency performance
- 41.604(256B,34CFR300) Enforcement
- 41.605(256B,34CFR300) Withholding funds
- 41.606(256B,34CFR300) Public attention
- 41.607 Reserved
- 41.608(256B,34CFR300) State enforcement
- 41.609(256B,34CFR300) State consideration of other state or federal laws
- 41.610(256B,34CFR300) Confidentiality
- 41.611(256B,34CFR300) Definitions
- 41.612(256B,34CFR300) Notice to parents
- 41.613(256B,34CFR300) Access rights
- 41.614(256B,34CFR300) Record of access
- 41.615(256B,34CFR300) Records on more than one child
- 41.616(256B,34CFR300) List of types and locations of information
- 41.617(256B,34CFR300) Fees
- 41.618(256B,34CFR300) Amendment of records at parent's request
- 41.619(256B,34CFR300) Opportunity for a hearing
- 41.620(256B,34CFR300) Result of hearing
- 41.621(256B,34CFR300) Hearing procedures
- 41.622(256B,34CFR300) Consent
- 41.623(256B,34CFR300) Safeguards
- 41.624(256B,34CFR300) Destruction of information
- 41.625(256B,34CFR300) Children's rights
- 41.626(256B,34CFR300) Enforcement
- 41.627 to 41.639 Reserved
- 41.640(256B,34CFR300) Annual report of children served—report requirement
- 41.641(256B,34CFR300) Annual report of children served—information required in the report
- 41.642(256B,34CFR300) Data reporting

- 41.643(256B,34CFR300) Annual report of children served—certification
- 41.644(256B,34CFR300) Annual report of children served—criteria for counting children
- 41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA
- 41.646(256B,34CFR300) Disproportionality
- 41.647(256B,34CFR300) Determining significant disproportionality
- 41.648 to 41.699 Reserved

DIVISION IX
RESERVED

- 41.700 to 41.799 Reserved

DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

- 41.800(256B,34CFR300) General rule
- 41.801 to 41.803 Reserved
- 41.804(256B,34CFR300) Eligibility
- 41.805 Reserved
- 41.806(256B,34CFR300) Eligibility for financial assistance
- 41.807 to 41.812 Reserved
- 41.813(256B,34CFR300) State administration
- 41.814(256B,34CFR300) Other state-level activities
- 41.815(256B,34CFR300) Subgrants to AEAs
- 41.816(256B,34CFR300) Allocations to AEAs
- 41.817(256B,34CFR300) Reallocation of AEA funds
- 41.818(256B,34CFR300) Part C of the Act inapplicable
- 41.819 to 41.899 Reserved

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

- 41.900 Reserved
- 41.901(256B,282) Records and reports
- 41.902(256B,282) Audit
- 41.903(256B,282) Contractual agreements
- 41.904(256B) Research and demonstration projects and models for special education program development
- 41.905(256B,273) Additional special education
- 41.906(256B,273,282) Extended school year services
- 41.907(256B,282,34CFR300,303) Program costs
- 41.908(256B,282) Accountability
- 41.909 to 41.999 Reserved

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

- 41.1000 and 41.1001 Reserved
- 41.1002(256B,34CFR300) Special education mediation conference
- 41.1003(17A,256B) Procedures concerning due process complaints
- 41.1004 to 41.1008 Reserved
- 41.1009(17A,256B) Witnesses
- 41.1010(17A,256B) Rules of evidence
- 41.1011(17A,256B) Communications
- 41.1012(17A,256B) Record
- 41.1013 Reserved
- 41.1014(17A,256B) Finality of decision
- 41.1015(256B,34CFR300) Disqualification of mediator
- 41.1016(17A) Correcting decisions of administrative law judges

41.1017 to 41.1099 Reserved

DIVISION XIII
ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

- 41.1100(256B,34CFR300) References to federal law
41.1101(256B,34CFR300) Severability
41.1102(256B,34CFR300) Rule of construction

CHAPTER 42

Reserved

TITLE VIII
SCHOOL TRANSPORTATION

CHAPTER 43
PUPIL TRANSPORTATION

DIVISION I
TRANSPORTATION ROUTES

- 43.1(285) Intra-area education agency routes
43.2(285) Interarea education agency routes

DIVISION II
PRIVATE CONTRACTORS

- 43.3(285) Contract necessary
43.4(285) Uniform charge
43.5(285) Board to be a party
43.6(285) Contract with parents
43.7(285) Vehicles

DIVISION III
FINANCIAL RECORDS AND REPORTS

- 43.8(285) Required charges
43.9(285) Activity trips deducted

DIVISION IV
USE OF SCHOOL BUSES OTHER THAN FOR ROUTES

- 43.10(285) Permitted uses listed

DIVISION V
THE BUS DRIVER

- 43.11(285) Driver age
43.12(285) Physical fitness
43.13(285) Authorization
43.14(321) Fee collection and distribution of funds

DIVISION VI
PURCHASE OF BUSES

- 43.15(285) Local board procedure
43.16(285) Financing

DIVISION VII
MISCELLANEOUS PROVISIONS

- 43.17(285) Semiannual inspection
43.18(285) Maintenance record
43.19(285) Drivers' schools
43.20(285) Insurance
43.21(285) Contract—privately owned buses
43.22(285) Contract—district-owned buses
43.23(285) Railroad crossings
43.24(285) Driver regulations

- 43.25(285) Civil defense projects
- 43.26(285) Pupil instruction
- 43.27(285) Trip inspections
- 43.28(285) Loading and unloading areas
- 43.29(285) Communication equipment

DIVISION VIII
COMMON CARRIERS

- 43.30(285) Standards for common carriers

CHAPTER 44
SCHOOL BUSES

- 44.1(285) Requirements for manufacturers
- 44.2(285) School bus—type classifications
- 44.3(285) School bus body and chassis specifications
- 44.4(285) Construction of vehicles for children with mobility disabilities
- 44.5(285) Type III vehicles
- 44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture

CHAPTER 45
Reserved

TITLE IX
VOCATIONAL EDUCATION

CHAPTER 46
CAREER AND TECHNICAL EDUCATION

- 46.1(256) Federal Act accepted
- 46.2(256) Definitions
- 46.3(256) State board for career and technical education
- 46.4(256) Career and technical education service areas
- 46.5(256) Standards for career and technical education
- 46.6(256) Career and technical education program approval and review
- 46.7(258) Accreditation standards not met
- 46.8(258) Advisory council
- 46.9(258) Distribution of career and technical education funds
- 46.10(258) Regional career and technical education planning partnerships
- 46.11(258) Career academies
- 46.12(258) Regional centers
- 46.13(423F) Career academy incentive fund

CHAPTERS 47 and 48
Reserved

CHAPTER 49
INDIVIDUALIZED CAREER AND EDUCATION PLAN

- 49.1(279) Definitions
- 49.2(279) Individualized career and academic plan
- 49.3(279) Essential components
- 49.4(279) District plan
- 49.5(279) Career information and decision-making systems
- 49.6(279) Compliance
- 49.7(256) Program established

CHAPTER 50

Reserved

TITLE X

VETERANS' TRAINING

CHAPTER 51

VETERANS' EDUCATION AND TRAINING

- 51.1(256) Apprenticeships and on-the-job training programs for veterans
 51.2(256) Educational institutions

CHAPTERS 52 to 55

Reserved

TITLE XI

VOCATIONAL REHABILITATION EDUCATION

CHAPTERS 56 and 57

Reserved

TITLE XII

PROGRAMS ADMINISTRATION

CHAPTER 58

SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL
CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

- 58.1(256,283A) School breakfast and lunch program
 58.2(256) Nutritional content standards for other foods and beverages

CHAPTER 59

GIFTED AND TALENTED PROGRAMS

- 59.1(257) General principles
 59.2(257) Definitions
 59.3(257) Program plan
 59.4(257) Responsibilities of school districts
 59.5(257) Responsibilities of area education agencies
 59.6(257) Responsibilities of the department

CHAPTER 60

PROGRAMS FOR STUDENTS WHO ARE ENGLISH LEARNERS

- 60.1(280) Definitions
 60.2(280) School district responsibilities
 60.3(280) Department responsibility
 60.4(280) Nonpublic school participation
 60.5(280) Funding

CHAPTER 61

IOWA READING RESEARCH CENTER

- 61.1(256) Establishment
 61.2(256) Purpose
 61.3(256) Intensive summer literacy program
 61.4(256) Nature of the center's operation
 61.5(256) Nature of the center's products
 61.6(256) Governance and leadership of the center
 61.7(256) Financing of the center

CHAPTER 62

STATE STANDARDS FOR PROGRESSION IN READING

62.1(256,279)	Assessment of reading proficiency
62.2(256,279)	Tools for evaluating and reevaluating reading proficiency
62.3(256,279)	Identification of a student as being persistently at risk in reading
62.4(256,279)	Successful progression for early readers
62.5(256,279)	Ensuring continuous improvement in reading proficiency
62.6(256,279)	Miscellaneous provisions

CHAPTER 63

EDUCATIONAL PROGRAMS AND SERVICES
FOR PUPILS IN JUVENILE HOMES

63.1(282)	Definitions
63.2(282)	Forms
63.3(282)	Budget amendments
63.4(282)	Area education agency responsibility
63.5(282)	Educational program
63.6(282)	Special education
63.7(282)	Other AEA services
63.8(282)	Curriculum
63.9(282)	Disaster procedures
63.10(282)	Maximum class size
63.11(282)	Teacher certification and preparation
63.12(282)	Aides
63.13(282)	Accounting
63.14(282)	Revenues
63.15(282)	Expenditures
63.16(282)	Claims
63.17(282)	Audits
63.18(282)	Waivers

CHAPTER 64

CHILD DEVELOPMENT COORDINATING COUNCIL

64.1(256A,279)	Purpose
64.2(256A,279)	Definitions applicable to this chapter
64.3(256A,279)	Child development coordinating council
64.4(256A,279)	Procedures
64.5(256A,279)	Duties
64.6(256A,279)	Application process
64.7(256A,279)	Request for proposals
64.8(256A,279)	Notification of applicants
64.9(256A,279)	Withdrawal of contract offer
64.10(256A,279)	Evaluation
64.11(256A,279)	Contract revisions and budget reversions
64.12(256A,279)	Termination for convenience
64.13(256A,279)	Termination for cause
64.14(256A,279)	Responsibility of grantee at termination
64.15(256A,279)	Appeal from terminations
64.16(256A,279)	Refusal to issue ruling
64.17(256A,279)	Request for Reconsideration
64.18(256A,279)	Refusal to issue decision on request
64.19(256A,279)	Granting a Request for Reconsideration

DIVISION I

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS OF CHILDREN AGED BIRTH THROUGH FIVE YEARS WHO ARE AT RISK (ALSO KNOWN AS SHARED VISIONS PARENT SUPPORT PROGRAMS)

- 64.20(256A,279) Definitions
- 64.21(256A,279) Eligibility identification procedures
- 64.22(256A,279) Eligibility
- 64.23(256A,279) Secondary eligibility
- 64.24(256A,279) Grant awards criteria
- 64.25(256A,279) Award contracts
- 64.26(256A,279) Grantee responsibilities

DIVISION II

CHILD DEVELOPMENT PROGRAMS (ALSO KNOWN AS SHARED VISIONS PRESCHOOL PROGRAMS)

- 64.27(256A,279) Definitions applicable to this division
- 64.28(256A,279) Eligibility identification procedures
- 64.29(256A,279) Primary eligibility
- 64.30(256A,279) Secondary eligibility
- 64.31(256A,279) Grant awards criteria
- 64.32(256A,279) Grant process
- 64.33(256A,279) Grantee responsibilities

CHAPTER 65

PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

- 65.1(279) Definitions
- 65.2(279) Eligibility identification procedures
- 65.3(279) Award acceptance process
- 65.4(279) Awardee responsibilities
- 65.5(279) Allowable expenditures
- 65.6(279) Evaluation
- 65.7(279) Budget revisions
- 65.8(279) Termination
- 65.9(279) Appeals from terminations

CHAPTERS 66 and 67

Reserved

CHAPTER 68

IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

DIVISION I
GENERAL PROVISIONS

- 68.1(256F,83GA,SF2033) Purpose
- 68.2(256F,83GA,SF2033) Definitions

DIVISION II
CHARTER SCHOOLS

- 68.3(256F,83GA,SF2033) Application to a school board
- 68.4(256F,83GA,SF2033) Review process
- 68.5(256F,83GA,SF2033) Ongoing review by department
- 68.6(256F,83GA,SF2033) Renewal of charter
- 68.7(256F,83GA,SF2033) Revocation of charter
- 68.8(256F) Transition—operation of existing charter schools
- 68.9 and 68.10 Reserved

DIVISION III
INNOVATION ZONE SCHOOLS

- 68.11(256F,83GA,SF2033) Application process
- 68.12(256F,83GA,SF2033) Review process
- 68.13(256F,83GA,SF2033) Ongoing review by department
- 68.14(256F,83GA,SF2033) Renewal of contract
- 68.15(256F,83GA,SF2033) Revocation of contract

CHAPTER 69

Reserved

TITLE XIII
AREA EDUCATION AGENCIES

CHAPTERS 70 and 71

Reserved

CHAPTER 72

ACCREDITATION OF AREA EDUCATION AGENCIES

- 72.1(273) Scope
- 72.2(273) Definitions
- 72.3(273) Accreditation components
- 72.4(273) Standards for services
- 72.5 to 72.8 Reserved
- 72.9(273) Comprehensive improvement plan
- 72.10(273) Annual budget and annual progress report
- 72.11(273) Comprehensive site visit

TITLE XIV
TEACHERS AND PROFESSIONAL LICENSING

CHAPTERS 73 to 76

Reserved

CHAPTER 77

STANDARDS FOR TEACHER INTERN PREPARATION PROGRAMS

- 77.1(256) General statement
- 77.2(256) Definitions
- 77.3(256) Institutions affected
- 77.4(256) Criteria for Iowa teacher intern preparation programs
- 77.5(256) Approval of programs
- 77.6(256) Periodic reports
- 77.7(256) Approval of program changes

TEACHER INTERN PREPARATION PROGRAM STANDARDS

- 77.8(256) Governance and resources standard
- 77.9(256) Faculty standard
- 77.10(256) Program of study standard
- 77.11(256) Assessment standard

CHAPTER 78

Reserved

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR
PREPARATION PROGRAMS

DIVISION I

GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

- 79.1(256) General statement
- 79.2(256) Definitions
- 79.3(256) Institutions affected
- 79.4(256) Criteria for practitioner preparation programs
- 79.5(256) Approval of programs
- 79.6(256) Visiting teams
- 79.7(256) Periodic reports
- 79.8(256) Reevaluation of practitioner preparation programs
- 79.9(256) Approval of program changes

DIVISION II

SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

- 79.10(256) Governance and resources standard
- 79.11(256) Diversity standard
- 79.12(256) Faculty standard
- 79.13(256) Assessment system and unit evaluation standard

DIVISION III

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION
PROGRAMS FOR TEACHER CANDIDATES

- 79.14(256) Teacher preparation clinical practice standard
- 79.15(256) Teacher candidate knowledge, skills and dispositions standard

DIVISION IV

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

- 79.16(256) Administrator preparation clinical practice standard
- 79.17(256) Administrator knowledge, skills, and dispositions standard
- 79.18 Reserved

DIVISION V

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS
OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

- 79.19(256) Purpose
- 79.20(256) Clinical practice standard
- 79.21(256) Candidate knowledge, skills and dispositions standard

CHAPTER 80
STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS

- 80.1(272) Definitions
- 80.2(272) Institutions affected
- 80.3(272) Criteria for Iowa paraeducator preparation programs
- 80.4(272) Application; approval of programs
- 80.5(272) Periodic reports
- 80.6(272) Reevaluation of paraeducator preparation programs
- 80.7(272) Approval of program changes
- 80.8(272) Organizational and resource standards
- 80.9(272) Diversity standards
- 80.10(272) Faculty standards
- 80.11(272) Program assessment and evaluation standards
- 80.12(272) Clinical practice standards

CHAPTER 81

STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

- 81.1(256) Definitions
- 81.2(256) Institutions eligible to provide a school business official preparation program
- 81.3(256) Approval of programs
- 81.4(256) Governance and resources standard
- 81.5(256) Instructor standard
- 81.6(256) Assessment system and institution evaluation standard
- 81.7(256) School business official candidate knowledge and skills standards and criteria
- 81.8(256) School business official mentoring program
- 81.9(256) Monitoring

CHAPTER 82

STANDARDS FOR SCHOOL ADMINISTRATION MANAGER PROGRAMS

- 82.1(272) Definitions
- 82.2(272) Organizations eligible to provide a school administration manager training program
- 82.3(272) Approval of training programs
- 82.4(272) Governance and resources standard
- 82.5(272) Trainer and coach standard
- 82.6(272) Assessment system and organization evaluation standard
- 82.7(272) School administration manager knowledge and skills standards and criteria
- 82.8(272) Monitoring and continued approval
- 82.9(272) Approval of program changes and flexibility of programs

CHAPTER 83

TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I

GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND TEACHER QUALITY PROGRAMS

- 83.1(284,284A) Definitions

DIVISION II

SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

- 83.2(284) Mentoring and induction program for beginning teachers
- 83.3(284) Iowa teaching standards and criteria
- 83.4(284) Evaluator approval training
- 83.5(284) Professional development for teachers
- 83.6(284) Teacher quality committees

DIVISION III

SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

- 83.7(284A) Administrator quality program
- 83.8(284A) Mentoring and induction program for administrators
- 83.9(284A) Iowa school leadership standards for administrators
- 83.10(284A) Evaluation
- 83.11(284A) Professional development of administrators

CHAPTER 84

FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

- 84.1(256) Definitions
- 84.2(256) Registration fee reimbursement program
- 84.3(256) NBC annual award
- 84.4(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award

CHAPTERS 85 to 93

Reserved

TITLE XV
EDUCATIONAL EXCELLENCE

CHAPTER 94

Reserved

CHAPTER 95

EQUAL EMPLOYMENT OPPORTUNITY
AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

- 95.1(19B) Definitions
- 95.2(19B) Equal employment opportunity standards
- 95.3(19B) Duties of boards of directors
- 95.4(19B) Plan components
- 95.5(19B) Dissemination
- 95.6(19B) Reports

TITLE XVI
SCHOOL FACILITIES

CHAPTER 96

STATEWIDE SALES AND
SERVICES TAX FOR SCHOOL INFRASTRUCTURE

- 96.1(423E,423F) Definitions
- 96.2(423E,423F) Reports to the department
- 96.3(423E,423F) Combined actual enrollment
- 96.4(423E,423F) Application and certificate of need process
- 96.5(423E,423F) Review process
- 96.6(423E,423F) Award process
- 96.7(423E,423F) Applicant responsibilities
- 96.8(423E,423F) Appeal of certificate denial

CHAPTER 97

SUPPLEMENTARY WEIGHTING

- 97.1(257) Definitions
- 97.2(257) Supplementary weighting plan
- 97.3(257) Supplementary weighting plan for a regional academy
- 97.4(257) Supplementary weighting plan for whole-grade sharing
- 97.5(257) Supplementary weighting plan for ICN video services
- 97.6(257) Supplementary weighting plan for operational services
- 97.7(261E) Concurrent enrollment program contracts between accredited nonpublic schools and community colleges

CHAPTER 98

FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS

- 98.1(256,257) Definitions
- 98.2(256,257) General finance
- 98.3 to 98.10 Reserved

DIVISION II
 APPROPRIATE USE OF BUDGETARY ALLOCATIONS

98.11(257)	Categorical and noncategorical student counts
98.12(257,299A)	Home school assistance program
98.13(256C,257)	Statewide voluntary four-year-old preschool program
98.14(257)	Supplementary weighting
98.15(257)	Operational function sharing supplementary weighting
98.16(257,280)	English learner weighting
98.17(256B,257)	Special education weighting
98.18(257)	At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting
98.19(257)	Reorganization incentive weighting
98.20(257)	Gifted and talented program
98.21(257)	At-risk program, alternative program or alternative school, and potential or returning dropout prevention program—modified supplemental amount
98.22(257)	Use of the unexpended general fund balance
98.23(257)	Early intervention supplement
98.24(257,284)	Teacher salary supplement
98.25(257,284)	Teacher leadership supplement
98.26(257,284)	Educator quality professional development, also known as professional development supplement
98.27(257,298A)	Flexibility account
98.28 to 98.39	Reserved

DIVISION III
 APPROPRIATE USE OF GRANTS IN AID

98.40(256,257,298A)	Grants in aid
98.41	Reserved
98.42(257,284)	Beginning teacher mentoring and induction program
98.43(257,284A)	Beginning administrator mentoring and induction program
98.44(257,301)	Nonpublic textbook services
98.45(279)	Early literacy
98.46 to 98.59	Reserved

DIVISION IV
 APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670)	Levies and funds
98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670)	General fund
98.62(279,296,298,670)	Management fund
98.63(298)	Library levy fund
98.64(279,283,297,298)	Physical plant and equipment levy (PPEL) fund
98.65(276,300)	Public educational and recreational levy (PERL) fund
98.66(257,279,298A,565)	District support trust fund
98.67(257,279,298A,565)	Permanent funds
98.68(76,274,296,298,298A)	Debt service fund
98.69(76,273,298,298A,423E,423F)	Capital projects fund
98.70(279,280,298A)	Student activity fund
98.71(298A)	Entrepreneurial education fund
98.72(256B,257,298A)	Special education instruction fund
98.73(282,298A)	Juvenile home program instruction fund
98.74(283A,298A)	School nutrition fund
98.75(279,298A)	Child care and before- and after-school programs fund
98.76(298A)	Regular education preschool fund

98.77(298A)	Student construction fund
98.78(298A)	Other enterprise funds
98.79 to 98.81	Reserved
98.82(298A)	Internal service funds
98.83 to 98.91	Reserved
98.92(257,279,298A,565)	Private purpose trust funds
98.93(298A)	Other trust funds
98.94 to 98.100	Reserved
98.101(298A)	Custodial funds
98.102 to 98.110	Reserved
98.111(24,29C,257,298A)	Emergency levy fund
98.112(275)	Equalization levy fund

CHAPTER 99

BUSINESS PROCEDURES AND DEADLINES

99.1(257)	Definitions
99.2(256,257,285,291)	Submission deadlines
99.3(257)	Good cause for late submission
99.4(24,256,257,291)	Budgets, accounting, and reporting

CHAPTER 100

Reserved

TITLE XVII

PROTECTION OF CHILDREN

CHAPTER 101

Reserved

CHAPTER 102

PROCEDURES FOR CHARGING AND INVESTIGATING INCIDENTS OF ABUSE
OF STUDENTS BY SCHOOL EMPLOYEES

102.1(280)	Definitions
102.2(280)	Jurisdiction
102.3	Reserved
102.4(280)	Exceptions
102.5(280)	Duties of school authorities
102.6(280)	Filing of a report
102.7(280)	Receipt of report
102.8(280)	Duties of designated investigator—physical abuse allegations
102.9(280)	Duties of designated investigator—sexual abuse allegations
102.10(280)	Content of investigative report
102.11(280)	Founded reports—designated investigator's duties
102.12(280)	Level-two investigator's duties
102.13(280)	Retention of records
102.14(280)	Substantial compliance

CHAPTER 103

CORPORAL PUNISHMENT, PHYSICAL RESTRAINT, SECLUSION, AND OTHER
PHYSICAL CONTACT WITH STUDENTS

103.1(256B,280)	Purpose and objectives
103.2(256B,280)	Definitions
103.3(256B,280)	Ban on corporal punishment and prone and mechanical restraints
103.4(256B,280)	Activities that are not considered corporal punishment

- 103.5(256B,280) Use of reasonable and necessary force
- 103.6(256B,280) Reasonable force
- 103.7(256B,280) Reasonable and necessary force—use of physical restraint or seclusion
- 103.8(256B,280) Training, documentation, debriefing, and reporting requirements
- 103.9(256B,280) Seclusion room requirements
- 103.10(256B,280) Department responsibilities

CHAPTERS 104 to 119

Reserved

TITLE XVIII EARLY CHILDHOOD

CHAPTER 120 EARLY ACCESS INTEGRATED SYSTEM OF EARLY INTERVENTION SERVICES

DIVISION I PURPOSE AND APPLICABILITY

- 120.1(34CFR303) Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services
- 120.2(34CFR303) Applicability of this chapter
- 120.3(34CFR303) Applicable federal regulations

DIVISION II DEFINITIONS

- 120.4(34CFR303) Act
- 120.5(34CFR303) At-risk infant or toddler
- 120.6(34CFR303) Child
- 120.7(34CFR303) Consent
- 120.8(34CFR303) Council
- 120.9(34CFR303) Day
- 120.10(34CFR303) Developmental delay
- 120.11(34CFR303) Early intervention service program
- 120.12(34CFR303) Early intervention service provider
- 120.13(34CFR303) Early intervention services
- 120.14(34CFR303) Elementary school
- 120.15(34CFR303) Free appropriate public education
- 120.16(34CFR303) Health services
- 120.17(34CFR303) Homeless children
- 120.18(34CFR303) Include; including
- 120.19(34CFR303) Indian; Indian tribe
- 120.20(34CFR303) Individualized family service plan
- 120.21(34CFR303) Infant or toddler with a disability
- 120.22(34CFR303) Lead agency
- 120.23(34CFR303) Local educational agency
- 120.24(34CFR303) Multidisciplinary
- 120.25(34CFR303) Native language
- 120.26(34CFR303) Natural environments
- 120.27(34CFR303) Parent
- 120.28(34CFR303) Parent training and information center
- 120.29(34CFR303) Personally identifiable information
- 120.30(34CFR303) Public agency
- 120.31(34CFR303) Qualified personnel
- 120.32(34CFR303) Scientifically based research

- 120.33(34CFR303) Secretary
- 120.34(34CFR303) Service coordination services (case management)
- 120.35(34CFR303) State
- 120.36(34CFR303) State educational agency
- 120.37(34CFR303) Ward of the state
- 120.38(34CFR303) Other definitions used in this chapter
- 120.39 to 120.99 Reserved

DIVISION III
STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS
FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

- 120.100 Reserved
- 120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act
- 120.102(34CFR303) State conformity with Part C of the Act
- 120.103 and 120.104 Reserved
- 120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities
- 120.106 to 120.109 Reserved
- 120.110(34CFR303) Minimum components of a statewide system
- 120.111(34CFR303) State definition of developmental delay
- 120.112(34CFR303) Availability of early intervention services
- 120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures
- 120.114(34CFR303) Individualized family service plan (IFSP)
- 120.115(34CFR303) Comprehensive child find system
- 120.116(34CFR303) Public awareness program
- 120.117(34CFR303) Central directory
- 120.118(34CFR303) Comprehensive system of personnel development (CSPD)
- 120.119(34CFR303) Personnel standards
- 120.120(34CFR303) Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities
- 120.121(34CFR303) Policy for contracting or otherwise arranging for services
- 120.122(34CFR303) Reimbursement procedures
- 120.123(34CFR303) Procedural safeguards
- 120.124(34CFR303) Data collection
- 120.125(34CFR303) State interagency coordinating council
- 120.126(34CFR303) Early intervention services in natural environments
- 120.127 to 120.199 Reserved

DIVISION IV
STATE APPLICATION AND ASSURANCES

- 120.200 Reserved
- 120.201(34CFR303) Designation of lead agency
- 120.202(34CFR303) Certification regarding financial responsibility
- 120.203(34CFR303) Statewide system and description of services
- 120.204 Reserved
- 120.205(34CFR303) Description of use of funds
- 120.206(34CFR303) Referral policies for specific children
- 120.207(34CFR303) Availability of resources
- 120.208(34CFR303) Public participation policies and procedures
- 120.209(34CFR303) Transition to preschool and other programs
- 120.210(34CFR303) Coordination with Head Start and Early Head Start, early education, and child care programs
- 120.211 Reserved
- 120.212(34CFR303) Additional information and assurances
- 120.213 to 120.219 Reserved

120.220(34CFR303)	Assurances satisfactory to the Secretary
120.221(34CFR303)	Expenditure of funds
120.222(34CFR303)	Payor of last resort
120.223(34CFR303)	Control of funds and property
120.224(34CFR303)	Reports and records
120.225(34CFR303)	Prohibition against supplanting; indirect costs
120.226(34CFR303)	Fiscal control
120.227(34CFR303)	Traditionally underserved groups
120.228(34CFR303)	Subsequent state application and modifications of application
120.229 to 120.299	Reserved

DIVISION V

CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

120.300(34CFR303)	General
120.301(34CFR303)	Public awareness program—information for parents
120.302(34CFR303)	Comprehensive child find system
120.303(34CFR303)	Referral procedures
120.304 to 120.309	Reserved
120.310(34CFR303)	Post-referral timeline (45 calendar days)
120.311 to 120.319	Reserved
120.320(34CFR303)	Screening procedures
120.321(34CFR303)	Evaluation of the child and assessment of the child and family
120.322(34CFR303)	Determination that a child is not eligible
120.323 to 120.339	Reserved
120.340(34CFR303)	Individualized family service plan—general
120.341	Reserved
120.342(34CFR303)	Procedures for IFSP development, review, and evaluation
120.343(34CFR303)	IFSP team meeting and periodic review
120.344(34CFR303)	Content of an IFSP
120.345(34CFR303)	Interim IFSPs—provision of services before evaluations and assessments are completed
120.346(34CFR303)	Responsibility and accountability
120.347(256B,34CFR303)	Family support mentoring program
120.348 to 120.399	Reserved

DIVISION VI

PROCEDURAL SAFEGUARDS

120.400(34CFR303)	General responsibility of lead agency for procedural safeguards
120.401(34CFR303)	Confidentiality and opportunity to examine records
120.402(34CFR303)	Confidentiality
120.403(34CFR303)	Definitions
120.404(34CFR303)	Notice to parents
120.405(34CFR303)	Access rights
120.406(34CFR303)	Record of access
120.407(34CFR303)	Records on more than one child
120.408(34CFR303)	List of types and locations of information
120.409(34CFR303)	Fees for records
120.410(34CFR303)	Amendment of records at a parent's request
120.411(34CFR303)	Opportunity for a hearing
120.412(34CFR303)	Result of hearing
120.413(34CFR303)	Hearing procedures
120.414(34CFR303)	Consent prior to disclosure or use
120.415(34CFR303)	Safeguards
120.416(34CFR303)	Destruction of information

120.417(34CFR303)	Enforcement
120.418 and 120.419	Reserved
120.420(34CFR303)	Parental consent and ability to decline services
120.421(34CFR303)	Prior written notice and procedural safeguards notice
120.422(34CFR303)	Surrogate parents
120.423 to 120.429	Reserved
120.430(34CFR303)	State dispute resolution options
120.431(34CFR303)	Mediation
120.432(34CFR303)	Adoption of state complaint procedures
120.433 and 120.434	Reserved
120.435(34CFR303)	Appointment of an administrative law judge
120.436(34CFR303)	Parental rights in due process hearing proceedings
120.437(34CFR303)	Convenience of hearings and timelines
120.438(34CFR303)	Civil action
120.439(34CFR303)	Limitation of actions
120.440(34CFR303)	Rule of construction
120.441(34CFR303)	Attorney fees
120.442 to 120.448	Reserved
120.449(34CFR303)	State enforcement mechanisms
120.450 to 120.499	Reserved

DIVISION VII

USE OF FUNDS; PAYOR OF LAST RESORT

120.500(34CFR303)	Use of funds, payor of last resort, and system of payments
120.501(34CFR303)	Permissive use of funds by the department
120.502 to 120.509	Reserved
120.510(34CFR303)	Payor of last resort
120.511(34CFR303)	Methods to ensure the provision of, and financial responsibility for, Early ACCESS services
120.512 to 120.519	Reserved
120.520(34CFR303)	Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services
120.521(34CFR303)	System of payments and fees
120.522 to 120.599	Reserved

DIVISION VIII

STATE INTERAGENCY COORDINATING COUNCIL

120.600(34CFR303)	Establishment of council
120.601(34CFR303)	Composition
120.602(34CFR303)	Meetings
120.603(34CFR303)	Use of funds by the council
120.604(34CFR303)	Functions of the council; required duties
120.605(34CFR303)	Authorized activities by the council
120.606 to 120.699	Reserved

DIVISION IX

FEDERAL AND STATE MONITORING AND ENFORCEMENT;
REPORTING; AND ALLOCATION OF FUNDS

120.700(34CFR303)	State monitoring and enforcement
120.701(34CFR303)	State performance plans and data collection
120.702(34CFR303)	State use of targets and reporting
120.703(34CFR303)	Department review and determination regarding EIS program performance
120.704(34CFR303)	Enforcement
120.705(34CFR303)	Withholding funds
120.706(34CFR303)	Public attention

120.707	Reserved
120.708(34CFR303)	State enforcement
120.709(34CFR303)	State consideration of other state or federal laws
120.710 to 120.719	Reserved
120.720(34CFR303)	Data requirements—general
120.721(34CFR303)	Annual report of children served—report requirement
120.722(34CFR303)	Data reporting
120.723(34CFR303)	Annual report of children served—certification
120.724(34CFR303)	Annual report of children served—other responsibilities of the department
120.725 to 120.800	Reserved

DIVISION X
OTHER PROVISIONS

120.801(34CFR303)	Early ACCESS system—state level
120.802(34CFR303)	Interagency service planning
120.803(34CFR303)	System-level disputes
120.804(34CFR303)	Early ACCESS system—regional and community levels
120.805(34CFR303)	Provision of year-round services
120.806(34CFR303)	Evaluation and improvement
120.807(34CFR303)	Research
120.808(34CFR303)	Records and reports
120.809(34CFR303)	Information for department
120.810(34CFR303)	Public information
120.811(34CFR303)	Dispute resolution: practice before mediators and administrative law judges
120.812(34CFR303)	References to federal law
120.813(34CFR303)	Severability
120.814(34CFR303)	Rule of construction

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 83]

The department of education hereby adopts, with the following exceptions and amendments, Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website. Rule 281—5.1(22,256) sets forth the exceptions and additions to rules, numbered X.1(17A,22) through X.8(17A,22), in the uniform rules chapter in roughly the order in which they appear. Rules 281—5.2(22,256) through 281—5.6(22,256) are additional rules specific to the department.

281—5.1(22,256) Exceptions and additions.

5.1(1) *Definition of "agency."* In lieu of the words "(official or body issuing these rules)" in uniform rule X.1, insert "department of education".

5.1(2) *Request for access to record.* In subrule X.3(1), replace the paragraph with "Requests for access to records of the Iowa department of education are to be directed to the Grimes State Office Building, Des Moines, Iowa 50319-0146, regardless of where those records are located."

5.1(3) *Office hours.* In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)" in subrule X.3(2), insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays".

5.1(4) *Fees.* In paragraph X.3(7) "c," in lieu of the words "(specify time period)", insert "one hour". The fee will be \$60 per hour.

5.1(5) *Procedure by which additions, dissents, or objections may be entered into certain records.* In rule X.6, in lieu of the words "(designate office)", insert "the office of the director of the agency".

5.1(6) *Consent to disclosure by the subject of a confidential record.* In rule X.7, add the following paragraphs:

X.7(1) A letter from a subject of a confidential record to a public official who seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

X.7(2) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 281—5.6(22,256). However, the agency need not release records to the subject in the following circumstances:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as provided by the Iowa Code. (See Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

X.7(3) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

[ARC 7785C, IAB 4/17/24, effective 5/22/24]

281—5.2(22,256) Disclosures without the consent of the subject.

5.2(1) Records that are not confidential are routinely disclosed without the consent of the subject.

5.2(2) Records that are confidential will be disclosed outside of the department only with the consent of the subject of the record or in circumstances in which consent of the subject is not legally necessary.

[ARC 7785C, IAB 4/17/24, effective 5/22/24]

281—5.3(22,256) Availability of records. Agency records are open for public inspection and copying unless otherwise provided by rule or law. The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may

request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule X.4(17A,22). If the agency initially determines that it will release these records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in this chapter.

[ARC 7785C, IAB 4/17/24, effective 5/22/24]

281—5.4(22,256) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule X.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with that in another record system. The record systems maintained by the agency include:

5.4(1) Staff records of the basic educational data survey. Records of employees of area educational agencies, merged area schools, and approved public and private schools, whose positions require an Iowa teacher's certificate and contain such personally identifiable information as name, Iowa teacher's certificate number, and social security number. Other data collected are date of birth, teaching experience, sex, current position and assignments. This information is collected pursuant to Iowa Code section 256.9(18). Data processing systems match, collate, and compare the personally identifiable information of the staff records with that of teacher certification records.

5.4(2) Driver education records. Driver education records contain personally identifiable information such as name, driver's license number, and Iowa teacher's certificate number collected pursuant to Iowa Code section 321.178. Data processing systems match, collate, and compare the personally identifiable information of the driver education records with that of the teacher certification records and BEDS staff records.

5.4(3) Bus driver permit records. Bus driver permit records contain personally identifiable information such as name, social security number, driver's license number, and bus driver's permit number collected pursuant to Iowa Code sections 321.376 and 285.11(10) and 281—Chapter 43. Data processing systems match, collate, and compare the personally identifiable information of the bus driver permit numbers with that of bus accident records.

5.4(4) Teacher certification records. Teacher certification records contain information about each individual issued an Iowa teacher's certificate. These records contain such personally identifiable information as name, teacher's certificate number and social security number. Other data collected are date of birth, type and source of degree, completion of mandatory postgraduation coursework, experience, and the subjects and grade level authorized to teach. This information is collected pursuant to Iowa Code section 256.7(3) and 256.7(5). Data processing systems match, collate, and compare the personally identifiable information of the teacher certification records with that of BEDS staff records, driver education records, and career education records.

5.4(5) Exceptional child survey. These records are exempt from disclosure under Iowa Code section 22.7(1). The information gathered by this system relates to children and youth eligible for special education. Each student record contains a code derived from the child's name and birth date. The coded identifier is the personally identifiable information. Information in each record pertains to the child's condition and the special education instructional and support-related services provided to the child. Each record may also contain the child's teacher's name and teaching certificate number. This information is collected pursuant to Iowa Code chapter 256B and 34 CFR Parts 300 and 303. Procedures for protection of and access to this information are set forth in this state's plan under 20 U.S.C. §1401 et seq. These policies and procedures comply with the Family Educational Rights and Privacy Act of 1974 (34 CFR Part 90) and 34 CFR Part 300.

This information is stored in an automated data processing system that does not match, collate, or compare the personally identifiable information of the exceptional child survey records with the personally identifiable information of other records systems.

5.4(6) Department approval—special education placements. These are requests for approval to place a pupil eligible for special education in an out-of-state educational program and would contain

personally identifiable information such as the pupil's name, birth date, residence, condition and other information relative to the identified special education needs of the pupil. Response to these requests for department approval would contain similar information.

This information is collected pursuant to Iowa Code section 273.3(5). Data processing systems do not match, collate, or compare the personally identifiable information with other records. All personally identifiable information gathered through this effort is confidential under the provisions of 34 CFR Parts 90 and 300.

5.4(7) *Special education complaint management system.* Information gathered in this record system is utilized as documentation of concerns or complaints related to special education programs and services to children with disabilities under the provisions of 34 CFR Part 300. Personally identifiable information includes the student's name, parent's name, and the nature of the concern or complaint being registered. Data processing systems do not match, collate, or compare personally identifiable information from these records with personally identifiable information of other records systems. Personally identifiable information gathered by this system is confidential under the provisions of 34 CFR Parts 90 and 300.

5.4(8) *Deaf-blind student registry.* This data collection system gathers information related to deaf-blind children and youth in Iowa. Personally identifiable information items would include the child's name, birth date, location, and services being provided to the child. Information is utilized to plan programs and services for all deaf-blind children and their families in the state. Data processing systems do not compare, collate or match personally identifiable information in this system with personally identifiable information in other data systems. Personally identifiable information gathered and maintained by this system is confidential under the provisions of 34 CFR Parts 90 and 300.

5.4(9) *Career education records.* Career education records contain personally identifiable information such as the names and certificate numbers of staff members employed to conduct career education programs. Other data collected concern approvals, reimbursements, enrollments, expenditures, and student characteristics, and completion status relating to career education programs. This information is collected pursuant to Iowa Code chapter 256, subchapter VII, part 2. Data processing systems match, collate, and compare the personally identifiable information of career education records with that of teacher certification records.

5.4(10) *Drinking driver course records.* These records contain such personally identifiable information as name, address, birth date and social security number. Other data collected are the driver's pre- and post-test scores. This information is collected pursuant to Iowa Code chapter 321J. Data processing systems in this agency do not match, collate, or compare the personally identifiable information of drinking driver records with other record systems.

5.4(11) *Personnel records.* The agency has records concerning individual agency employees, some of which may contain confidential information under Iowa Code section 22.7(11) and other legal provisions. Personnel records may be subject to the rules of the department of administrative services.

5.4(12) *Special project applications.* Applications from public school districts may contain personally identifiable information about qualifications of project staff members. No personally identifiable student data are collected. This information is collected pursuant to Iowa Code sections 257.42 through 257.46.

5.4(13) *Grants/awards/projects.* Records of persons or agencies applying for grants, awards, or funds for projects may contain information about individuals collected pursuant to specific federal or state statutes or regulations. This information may be stored in an automated data processing system.

5.4(14) *Appeal records.* These records contain data supplied by persons or entities appealing to the agency and may contain personally identifiable information such as student name, age, scholastic and disciplinary record, and status as regular or special education pupil. This information is collected pursuant to Iowa Code chapters 256B, 275, 280, 282, and 285. The personally identifiable information is not matched, collated, or compared with data in other record systems.

5.4(15) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney,

and case management records. The files contain materials that are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court that maintains the official copy.

[ARC 7785C, IAB 4/17/24, effective 5/22/24]

281—5.5(22,256) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 281—5.1(22,256). These records are routinely available to the public. However, the agency's files of these records may contain confidential information, which will be addressed as provided in this chapter. The records listed may contain information about individuals.

5.5(1) Rulemaking. Rulemaking records may contain information about individuals making written or oral comments on proposed rules or proposing rules or rule amendments. This information is collected pursuant to Iowa Code sections 17A.3, 17A.4, and 17A.7. These records are stored on paper and not in an automated data processing system.

5.5(2) State board records. Records contain agendas, minutes, and materials presented to the board. Records concerning closed sessions are exempt from disclosure under Iowa Code section 21.5(4). State board records contain information about people who participate in meetings. This information is collected under the authority of Iowa Code section 21.3. State board records are not stored in an automated data processing system.

5.5(3) Publications. Publications include news releases, annual reports, project reports, agency newsletters, etc., which describe various agency programs. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not stored in an automated data processing system.

5.5(4) Statistical reports. Periodic reports of various agency programs are available from the department of education. Statistical reports are not stored in an automated data processing system.

5.5(5) Address lists/directories. The names and mailing addresses of members of councils, working groups, program participants and members of the general public evidencing interest in particular programs/events of the agency are maintained in order to provide mailing labels for mass distribution of literature. This information is collected under the provisions of Iowa Code chapter 256.

5.5(6) Appeal decisions and declaratory rulings. All final orders, decisions and rulings are available for public inspection in accordance with Iowa Code section 17A.3. These records may contain personally identifiable information regarding individuals who are the subjects of the appeals or rulings. This information is collected pursuant to Iowa Code chapters 17A, 256B, 280, 282, 283A, 285, and 290 and 281—Chapters 6, 7 and 41 and is also available on the department's web page.

5.5(7) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

5.5(8) Basic educational data survey system records. Curriculum, address, policy and procedures, and enrollment records of the basic educational data survey system contain data concerning the curriculum, building, policy and procedures, and enrollment of merged area schools, area education agencies, and approved public and private K-12 educational agencies.

Address records contain the addresses of buildings in which educational agencies are located and the names of the chief administrators of those agencies collected pursuant to Iowa Code sections 256.7 and 256.9.

5.5(9) Secretary's annual report. This record contains information related to public school districts' attendance figures, revenues and expenditures.

5.5(10) Certified enrollment records. Public school district records with enrollments of resident students in district schools; resident students enrolled in another district; nonresident and out-of-state students enrolled in district schools; and full-time equivalent (FTE) enrollment of shared time, part-time and area school students of high school age. These records do not contain student names or other personally identifiable information.

5.5(11) School lunch program records. Records of public and private schools participating in the national school lunch program. Records contain information relating to funds available for reimbursements, advance payments, claims, and reimbursements made to schools; dates that participating schools were inspected; and individual employees of school food services of agencies participating in child nutrition programs. The personally identifiable information is collected pursuant to 7 CFR Section 210.9.

5.5(12) Commodity distribution records. Records of the allocation and delivery of federally provided commodities to participating schools.

5.5(13) Transportation records. Transportation records contain operational data for school buses.

5.5(14) Facilities' records. Records of buildings and additions to buildings owned by public and private K-12 educational agencies.

5.5(15) Child care food program records. Records contain information concerning advance payments made to institutions participating in the federal child care food program, agreements between institutions and their sites with program administrators, claims and reimbursements for meals served, and inspections of programs. The name of each program administrator is included in agreement records collected pursuant to 7 CFR Section 226.6(e)(1).

5.5(16) Career information system. Records of a project that stores and utilizes occupational and educational data for student use in career decision making.

5.5(17) Merged area school records. These records contain data concerning equipment (inventory), enrollment (by sex and residence), and the number of pupils completing programs.

5.5(18) High school equivalency diploma records. General equivalency diploma (GED) records contain the names, addresses, social security numbers, and test scores of individuals granted an Iowa high school equivalency diploma. This information is collected pursuant to Iowa Code chapter 259A.

5.5(19) Area education agency budget records. These records contain data used by the state board of education to approve AEA annual budgets.

5.5(20) Area education agency annual financial report records. These records contain data relating to revenue, expenditures, and balances as well as the number of AEA employees in each program.

5.5(21) Juvenile home records. The juvenile home educational program budget and claim documents collect financial, employee, and student operation data. Budget records are used by the agency for program approval. Claim records are used for approving reimbursements and program results.

5.5(22) Nonpublic school pupil textbook services records. These records contain data on public school per pupil textbook expenditures, number of resident nonpublic school pupils requesting textbook services and the cost of providing textbook services for nonpublic school pupils.

5.5(23) Nonpublic school pupils transportation services claims. These records contain data on expenditures for providing transportation to pupils attending approved nonpublic schools and requests for reimbursement.

[ARC 778SC, IAB 4/17/24, effective 5/22/24]

281—5.6(22,256) Applicability. This chapter does not:

1. Compel the agency to create a record that does not otherwise exist.
2. Require the agency to index or retrieve records that contain information about individuals by that person's name or other personal identifier.
3. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.
4. Govern the maintenance or disclosure of, notification of or access to records in the possession of the agency that are governed by the rules of another agency. This chapter applies to all records of the department of education. This chapter does not apply to the records of the following agencies under the department that have their own rulemaking authority: college student aid commission, educational examiners board, and school budget review committee.
5. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

6. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

[ARC 7785C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 22.11.

[Filed 4/29/88, Notice 3/9/88—published 5/18/88, effective 6/22/88]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed 6/4/04, Notice 3/31/04—published 6/23/04, effective 7/28/04]

[Filed ARC 7785C (Notice ARC 7582C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 8
ICN SUBSIDIZATION REIMBURSEMENT PROCEDURES
Rescinded IAB 12/16/98, effective 1/20/99

CHAPTERS 9 and 10
Reserved

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 11
UNSAFE SCHOOL CHOICE OPTION
Rescinded **ARC 7786C**, IAB 4/17/24, effective 5/22/24

CHAPTER 12
GENERAL ACCREDITATION STANDARDS
[Prior to 9/7/88, see Public Instruction Department[670] Ch 4]

281—12.1(256) General standards.

12.1(1) *Schools and school districts governed by general accreditation standards.* To become or remain accredited, school districts and accredited nonpublic schools are to comply with Iowa Code section 256.11 and this chapter.

12.1(2) *School board.* Each school or school district shall be governed by an identifiable authority that exercises the functions necessary for the effective operation of the school and is referred to in these rules as the “board” and as referenced in Iowa Code sections 280.2 and 280.3.

12.1(3) *Application for accreditation.*

a. The board of any school or school district that is not accredited on the effective date of these standards and that seeks accreditation shall file an application with the director of the department on or before the first day of January of the school year preceding the school year for which accreditation is sought.

b. The board of any school or school district that is not accredited on the effective date of these standards and that seeks accreditation from the department shall file an application with the director of the department on or before the first day of January of the school year preceding the school year for which accreditation is sought.

c. Nonpublic schools seeking accreditation under rule 281—12.10(256) shall provide evidence of accreditation by an organization approved under subrule 12.10(1) and such assurances of compliance with Iowa school law that the department may prescribe.

12.1(4) *Accredited schools and school districts.* Each school or school district receiving accreditation under the provisions of these standards will remain accredited except when by action of the state board of education it is removed from the list of accredited schools maintained by the department in accordance with Iowa Code sections 256.11(11) and 256.11(12).

12.1(5) *When nonaccredited.* A school district is nonaccredited on the day after the date it is removed from the list of accredited schools by action of the state board of education. A nonpublic school is nonaccredited on the date established by the resolution of the state board, which will be no later than the end of the school year in which the nonpublic school is declared to be nonaccredited.

12.1(6) *Alternative provisions for accreditation.* School districts may meet accreditation requirements through the provisions of Iowa Code sections 256.13, nonresident students; 273.7A, services to school districts; 279.20, superintendent—term; 280.15, joint employment and sharing; 282.7, attending in another corporation—payment; and 282.10, whole grade sharing. Nonpublic schools may meet accreditation requirements through the provisions of Iowa Code section 256.12.

12.1(7) *Minimum school calendar.* The minimum school calendar is set, either by a minimum number of hours or a minimum number of days, pursuant to Iowa Code sections 256.7(19), 279.10, and 279.11.

12.1(8) *Kindergarten.* The number of instructional days or hours within the school calendar and the length of the school day for kindergarten will be defined by the board or by authorities in charge of an accredited nonpublic school that operates a kindergarten program.

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.2(256) Definitions. For purposes of this chapter, the following definitions apply:

“*Annual improvement goals*” means the desired one-year rate of improvement for students. Data from multiple measures may be used to determine the rate of improvement.

“*Baseline data*” means information gathered at a selected point in time and used thereafter as a basis from which to monitor change.

“*Benchmarks*” means specific knowledge and skills anchored to content standards that a student needs to accomplish by a specific grade or grade span.

“*Board*” means the board of directors in charge of a public school district or the authorities in charge of an accredited nonpublic school.

“Competency-based education” means that learners advance through content or earn credit based on demonstration of proficiency of competencies. Proficiency for this context is the demonstrated skill or knowledge required to advance to and be successful in higher levels of learning in that content area. Some students may advance through more content or earn more credit than in a traditional school year while others might take more than a traditional school year to advance through the same content and to earn credit. A student must meet the requirements of subrule 12.5(13) to be awarded credit in a competency-based system of education.

“Curriculum” means a plan that outlines what students shall be taught. Curriculum refers to all the courses offered, or all the courses offered in a particular area of study.

“Department” means the department of education.

“Districtwide” means all attendance centers within a school district or accredited nonpublic school.

“Districtwide assessments” means large-scale achievement or performance measures. At least one districtwide assessment shall allow for the following: the comparison of the same group of students over time as they progress through the grades or the cross-sectional comparison of students at the same grades over multiple years.

“Districtwide progress” means the quantifiable change in school or school district student achievement and performance.

“Dropout” means a school-age student who is served by a public school district and enrolled in any of grades 7 through 12 and who does not attend school or withdraws from school for a reason other than death or transfer to another approved school or school district or has been expelled with no option to return.

“Educational program.” The educational program adopted by the board is the entire offering of the school, including out-of-class activities and the sequence of curriculum areas and activities. The educational program will provide articulated, developmental learning experiences from the date of student entrance until high school graduation.

“Enrolled student” means a person who has officially registered with the school or school district and is taking part in the educational program.

“Indicators” provide information about the general status, quality, or performance of an educational system.

“Library program” means an articulated sequential kindergarten through grade 12 library or media program that enhances student achievement and is integral to the school district’s curricula and instructional program. The library program is planned and implemented by a qualified teacher librarian working collaboratively with the district’s administration and instructional staff. The library program services provided to students and staff will include the following:

1. Support of the overall school curricula;
2. Collaborative planning and teaching;
3. Promotion of reading and literacy;
4. Information literacy instruction;
5. Access to a diverse and appropriate school library collection; and
6. Learning enhancement through technologies.

“Long-range goals” means desired targets to be reached over an extended period of time.

“Multiple assessment measures,” for reporting to the local community or the state, means more than one valid and reliable instrument that quantifies districtwide student learning, including specific grade-level data.

“Performance levels.” The federal Elementary and Secondary Education Act (ESEA) requires that at least three levels of performance be established to assist in determining which students have or have not achieved a satisfactory or proficient level of performance. At least two of those three levels will describe what all students ought to know or be able to do if their achievement or performance is deemed proficient or advanced. The third level will describe students who are not yet performing at the proficient level. A school or school district may establish more than three performance levels that include all students for districtwide or other assessments.

“*Prekindergarten program*” includes a school district’s implementation of the preschool program pursuant to Iowa Code chapter 256C.

“*Proficient*,” as it relates to content standards, characterizes student performance at a level that is acceptable by the school or school district.

“*School*” means an accredited nonpublic school.

“*School counseling program*” means an articulated sequential kindergarten through grade 12 program that is comprehensive in scope, preventive in design, developmental in nature, driven by data, and integral to the school district’s curricula and instructional program. The program is implemented by at least one school counselor, appropriately licensed by the board of educational examiners, who works collaboratively with the district’s administration and instructional staff. The program standards are described in subrule 12.3(11). The program’s delivery system components will include the following:

1. School guidance curriculum;
2. Support of the overall school curriculum;
3. Individual student planning;
4. Responsive services; and
5. System support.

“*School district*” means a public school district.

“*School improvement advisory committee*” means a committee, as defined in Iowa Code section 280.12, that is appointed by the board. Committee membership will include students, parents, teachers, administrators, and representatives from the local community that may include business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership is to have balanced representation of the following: race, gender, national origin, and disability. The school improvement advisory committee as defined by Iowa Code section 280.12 and the board are also part of, but not inclusive of, the local community.

“*Student learning goals*” means general statements of expectations for all graduates.

“*Students with disabilities*” means students who have individualized education programs regardless of the disability.

“*Subgroups*” means a subset of the student population that has a common characteristic. Subgroups include, but are not limited to, gender, race, students with disabilities, and socioeconomic status.

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.3(256) Administration. The following standards apply to the administration of accredited schools and school districts.

12.3(1) Board records. Each board is to adopt by written policy a system for maintaining accurate records. The system will provide for recording and maintaining the minutes of all board meetings, coding all receipts and expenditures, and recording and filing all reports required by the Iowa Code or requested by the director of the department. Financial records of school districts are to be maintained in a manner as to be easily audited according to accepted accounting procedures.

12.3(2) Policy manual. The board shall develop and maintain a policy manual that provides a codification of its policies, including the adoption date, the review date, and any revision date for each policy. Policies shall be reviewed at least every five years to ensure relevance to current practices and compliance with the Iowa Code, administrative rules and decisions, and court decisions.

12.3(3) Personnel evaluation. Each board will adopt evaluation criteria and procedures that conform to Iowa Code sections 279.14 and 279.23A for all contracted staff.

12.3(4) Student records. Each board will establish and maintain a system of student records, which will include for each student a permanent office record and a cumulative record.

The permanent office record serves as a historical record of official information concerning the student’s education. The permanent office record is to be recorded and maintained under the student’s legal name. At a minimum, the permanent office record will contain evidence of attendance and educational progress, serve as an official transcript, contain other data for use in planning to meet student needs, and provide data for official school and school district reports. This record is to be

permanently maintained and stored in a fire-resistant safe or vault or can be maintained and stored electronically with a secure backup file.

The cumulative record provides a continuous and current record of significant information on progress and growth. It should reflect information such as courses taken, scholastic progress, school attendance, physical and health record, experiences, interests, aptitudes, attitudes, abilities, honors, extracurricular activities, part-time employment, and future plans. It is the “working record” used by the instructional professional staff in understanding the student. At the request of a receiving school or school district, a copy of the cumulative record will be sent to officials of that school when a student transfers.

For the sole purpose of implementing an interagency agreement with state and local agencies in accordance with Iowa Code section 280.25, a student’s permanent record may include information contained in the cumulative record as defined above.

The board is to adopt a policy concerning the accessibility and confidentiality of student records that complies with the provisions of the federal Family Educational Rights and Privacy Act of 1974 and Iowa Code chapter 22.

12.3(5) *Requirements for graduation.* Each board providing a program through grade 12 will adopt a policy establishing the requirements students will meet for high school graduation. This policy will make provision for early graduation and be consistent with these requirements, Iowa Code sections 280.14 and 256.7(26).

12.3(6) *Student responsibility and discipline.* The board will adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board will involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies will relate to the educational purposes of the school or school district. The policies will include the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies will ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

The board will also consider the potential, disparate impact of the policies on students because of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2, gender identity as defined in Iowa Code section 216.2, disability, religion, creed, or socioeconomic status.

The board will publicize its support of these policies, its support of the staff in enforcing them, and the staff’s accountability for implementing them.

12.3(7) *Audit of school funds.* This subrule applies to school districts. The results of the annual audit of all school district funds conducted by the state auditor or a private auditing firm will be made part of the official records of the board as described in Iowa Code section 11.6.

12.3(8) *School or school district building grade-level organization.* The board shall adopt a grade-level organization for the buildings under its jurisdiction as described in Iowa Code sections 279.39 and 280.3.

12.3(9) *Standards for school counseling programs.* Each school district will establish a kindergarten through grade 12 comprehensive school counseling program, driven by student data and based on standards in academic, career, personal, and social areas, which supports the student achievement goals of the total school curriculum and to which all students have equitable access.

a. A qualified school counselor, licensed by the board of educational examiners, who works collaboratively with students, teachers, support staff and administrators will direct the program and provide services and instruction in support of the curricular goals of each attendance center. The school counselor is the member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The school counselor and

classroom teachers will collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on the following:

(1) Sequentially presented curriculum, programs, and responsive services that address growth and development of all students; and

(2) Attainment of student competencies in academic, career, personal, and social areas.

b. The program will be regularly reviewed and revised and designed to provide all of the following:

(1) Curriculum that is embedded throughout the district's overall curriculum and systemically delivered by the school counselor in collaboration with instructional staff through classroom and group activities and that consists of structured lessons to help students achieve desired competencies and to provide all students with the knowledge and skills appropriate for their developmental levels;

(2) Individual student planning through ongoing systemic activities designed to help students establish educational and career goals to develop future plans;

(3) Responsive services through intervention and curriculum that meet students' immediate and future needs as occasioned by events and conditions in students' lives and that may require any of the following: individual or group counseling; consultation with parents, teachers, and other educators; referrals to other school support services or community resources; peer helping; and information; and

(4) Systemic support through management activities that establish, maintain, and enhance the total school counseling program, including professional development, consultation, collaboration, program management, and operations.

12.3(10) *Standards for library programs.* The board of directors of each school district shall establish a kindergarten through grade 12 library program to support the student achievement goals of the total school curriculum as referenced in Iowa Code section 256.11(9). The board of directors of each school district will adopt policies to address selection and reconsideration of school library materials; confidentiality of student library records; and legal and ethical use of information resources, including plagiarism and intellectual property rights.

12.3(11) *Policy declaring harassment and bullying against state and school policy.* Each school and school district will adopt a policy declaring harassment and bullying against state and school policy and complying with the terms of Iowa Code section 280.28.

12.3(12) *Policy prohibiting the aiding and abetting of sexual abuse.*

a. General. The department and each public school district and area education agency shall adopt policies that prohibit any individual who is a school employee, contractor, or agent, or any state educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

b. Exception. The requirements of paragraph 12.3(12) "a" do not apply if all of the following conditions are met.

(1) The information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations.

(2) The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct have investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of, the alleged misconduct; or the case or investigation remains open and there have been no charges filed against, or indictment of,

the school employee, contractor, or agent within four years of the date on which the information was reported to a law enforcement agency.

12.3(13) *Display of United States flag, Iowa state flag, Pledge of Allegiance.* Iowa Code section 280.5 is incorporated by this reference.

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.4(256) School personnel. License/certificate and endorsement standards required in this rule relate to licenses/certificates and endorsements issued by the state board of educational examiners as referenced in Iowa Code chapter 256, subchapter VII, part 3. The following standards apply to personnel employed in accredited schools:

12.4(1) *Instructional professional staff.* Each person who holds a license/certificate endorsed for the service for which that person is employed is eligible for classification as a member of the instructional professional staff as referenced in Iowa Code section 279.13.

12.4(2) *Noninstructional professional staff.* A person who holds a statement of professional recognition, including a physician, dentist, nurse, speech therapist, or a person in one of the other noninstructional professional areas designated by the state board of education, is eligible for classification as a member of the noninstructional professional staff.

12.4(3) *Basis for approval of professional staff.* Each member of the professional staff will be classified as either instructional or noninstructional. An instructional professional staff member will be regarded as approved when holding either an appropriate license/certificate with endorsement or endorsements, or a license/certificate with an endorsement statement, indicating the specific teaching assignments that may be given. A noninstructional professional staff member will be regarded as approved when holding a statement of professional recognition for the specific type of noninstructional professional school service for which employed.

12.4(4) *Required administrative personnel.* Each board that operates both an elementary school and a secondary school will employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this provision by contracting with its area education agency for “superintendency services” as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as an elementary principal or as a high school principal in that school or school district provided that the superintendent holds the proper licensure/certification. For purposes of this subrule, high school means a school that commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code section 279.23(4).

12.4(5) *Staffing policies—elementary schools.* The board operating an elementary school will develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating an elementary school will employ at least one elementary principal. This position may be combined with that of secondary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements.

When grades 7 and 8 are part of an organized and administered junior high school, the staffing policies adopted by the board for secondary schools apply. When grades 7 and 8 are part of an organized and administered middle school, the staffing policies adopted by the board for elementary schools apply.

12.4(6) *Staffing policies—secondary schools.* The board operating a secondary school will develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating a secondary school will employ at least one secondary principal. This position may be combined with that of elementary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. This position may be combined with that of superintendent, but one person may not serve as elementary principal, secondary principal, and superintendent.

12.4(7) *Principal.* “Principal” means a licensed/certificated member of a school’s instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board’s policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school’s student activities program.

12.4(8) *Teacher.* A teacher is defined as a member of the instructional professional staff who holds a license/certificate endorsed for the type of position in which employed. A teacher diagnoses, prescribes, evaluates, and directs student learnings in terms of the school’s objectives, either singly or in concert with other professional staff members; shares responsibility with the total professional staff for developing educational procedures and student activities to be used in achieving the school’s objectives; supervises educational aides who assist in serving students for whom the teacher is responsible; and evaluates or assesses student progress during and following instruction in terms of the objectives sought, and uses this information to develop further educational procedures.

12.4(9) *Educational assistant.* An educational assistant is defined as an employee who, in the presence or absence of an instructional professional staff member but under the direction, supervision, and control of the instructional professional staff, supervises students or assists in providing instructional and other direct educational services to students and their families. An educational assistant shall not substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

During the initial year of employment, an educational assistant will complete staff development approved by the board as provided in subrule 12.7(1).

12.4(10) *Record of license/certificate or statement of professional recognition.* The board shall require each administrator, teacher, support service staff member, and noninstructional professional staff member on its staff to supply evidence that each holds a license/certificate or statement of professional recognition that is in force and valid for the type of position in which the individual is employed.

12.4(11) *Record required regarding teacher and administrative assignments.* The board shall require its superintendent or other designated administrator to maintain a file for all regularly employed members of the instructional professional staff, including substitute teachers. The file will consist of official licenses/certificates or copies thereof for all members of the instructional professional staff, including substitute teachers, showing that they are eligible for the position in which employed. The official will also maintain on file an official license/certificate or statement of professional recognition as defined in subrule 12.4(2) for each member of the noninstructional professional staff. These records will be on file at the beginning of and throughout each school year and updated annually to reflect all professional growth.

On December 1 of each year, the official will verify to the department the licensure/certification and endorsement status of each member of the instructional and administrative staff. This report will be on forms provided by the department and identify all persons holding authorizations and their specific assignment(s) with the authorization(s).

12.4(12) *Nurses.* The board of each school district shall employ a school nurse and require a current license to be filed with the superintendent or other designated administrator as specified in subrule 12.4(10).

12.4(13) *Prekindergarten staff.* Prekindergarten teachers shall hold a license/certificate valid for the prekindergarten level. The board will employ personnel as necessary to provide effective supervision and instruction in the prekindergarten program as referenced in Iowa Code sections 256.11(1) and 256.11(2).

12.4(14) *Support staff.* The board shall develop and implement procedures for the use of educational support staff to augment classroom instruction and to meet individual student needs. These staff members may be employed by the board or by the area education agency.

12.4(15) *Volunteer.* A volunteer is defined as an individual who, without compensation or remuneration, provides a supportive role and performs tasks under the direction, supervision, and

control of the school or school district staff. A volunteer shall not work as a substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.5(256) Education program. The following education program standards shall be met by schools and school districts for accreditation:

12.5(1) Prekindergarten program. Iowa Code section 256.11(1) is incorporated by this reference.

12.5(2) Kindergarten program. Iowa Code section 256.11(2) is incorporated by this reference. Any classroom serving students at least five years of age by September 15 is considered kindergarten.

12.5(3) Elementary program, grades 1 through 6. Iowa Code section 256.11(3) is incorporated by this reference. All content areas may be taught by the general education teacher in the teacher's own classroom. In implementing the elementary program standards, the following general curriculum definitions apply. It is locally determined how to incorporate these content specifications into relevant standards and benchmarks.

a. English-language arts. English-language arts are as referenced in Iowa Code sections 256.7(28) and 256.9(49) "a."

b. Social studies. Social studies are as referenced in Iowa Code section 256.7(26) "a"(3).

c. Mathematics. Mathematics instruction is as referenced in Iowa Code section 256.7(28).

d. Science. Science instruction is as referenced in Iowa Code section 256.7(28).

e. Health. Health instruction is as referenced in Iowa Code sections 256.7(26) "a"(3) and 279.50.

f. Physical education. Physical education instruction will include movement experiences and body mechanics; fitness activities; rhythmic activities; stunts and tumbling; simple games and relays; sports skills and activities; and water safety.

g. Traffic safety. Traffic safety instruction will include pedestrian safety; bicycle safety; auto passenger safety; school bus passenger safety; seat belt use; substance education; and the application of legal responsibility and risk management to these concepts.

h. Music. Music instruction will include skills, knowledge, and attitudes and will include singing and playing music; listening to and using music; reading and writing music; recognizing the value of the world's musical heritage; respecting individual musical aspirations and values; and preparing for consuming, performing, or composing.

i. Visual art. Visual art instruction will include perceiving, comprehending, and evaluating the visual world; viewing and understanding the visual arts; developing and communicating imaginative and inventive ideas; and making art.

j. Computer science. Computer science instruction incorporating the standards established under Iowa Code sections 256.7(26) "a"(4) and 256.9(61) is to be offered in at least one grade level.

12.5(4) Grades 7 and 8. The following will be taught in grades 7 and 8 pursuant to Iowa Code section 256.11(4). If grade 6 is configured with grades 7 and 8, the grade 7 and 8 requirements apply. It is a local decision whether all students are required to take visual arts or music. In implementing the grade 7 and 8 program standards, the following general curriculum definitions apply. It is locally determined how to incorporate the content specifications into relevant standards and benchmarks.

a. English-language arts. English-language arts instruction is as referenced in Iowa Code section 256.7(28).

b. Social studies. Social studies are as referenced in Iowa Code section 256.7(26) "a"(3).

c. Mathematics. Mathematics instruction is as referenced in Iowa Code section 256.7(28).

d. Science. Science instruction is as referenced in Iowa Code section 256.7(28).

e. Health. Health instruction is as referenced in Iowa Code sections 256.7(26) "a"(3) and 279.50.

f. Physical education. Physical education will include the physical fitness activities that increase cardiovascular endurance, muscular strength, and flexibility; sports and games; tumbling and gymnastics; rhythms and dance; water safety; and leisure and lifetime activities.

g. Music. Paragraph 12.5(3) "h" applies, with the addition of using music as an avocation or vocation.

h. Visual art. Paragraph 12.5(3) “*i*” applies, with the addition of using visual arts as an avocation or vocation.

i. Career education. Career education instruction will include exploration of employment opportunities, experiences in career decision making, and experiences to help students integrate work values and work skills into their lives. This paragraph does not apply to nonpublic schools. However, nonpublic schools will comply with subrule 12.5(7).

j. Computer science. Computer science instruction incorporating the standards established under Iowa Code section 256.7(26) “*a*” (4) will be offered in at least one grade level.

k. Secondary credit. Secondary credit will be awarded as referenced in Iowa Code section 256.7(26) “*a*” (1).

12.5(5) High school program, grades 9 through 12. In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(13). The following will be offered and taught as the minimum program as referenced in Iowa Code section 256.11(5). All students in schools and school districts shall satisfactorily complete requirements as referenced in Iowa Code sections 256.7(26), 256.11(5) “*b*,” and “*g*,” and 256.11(6) “*c*” in order to graduate. It is locally determined how to incorporate the content specifications into relevant standards and benchmarks.

In implementing the high school program standards, the following curriculum standards apply:

a. English-language arts (six units). English-language arts instruction is as referenced in Iowa Code section 256.7(28).

b. Social studies (five units). Social studies is as referenced in Iowa Code sections 256.7(26) “*a*” (3), 256.11(5) “*b*,” and 280.9A.

c. Mathematics (six units). Mathematics instruction is as referenced in Iowa Code sections 256.7(28) and 256.11(5) “*d*” through “*e*,” including:

(1) Four sequential units that are preparatory to postsecondary educational programs.

(2) Two additional units.

d. Science (five units). Science instruction is as referenced in Iowa Code sections 256.7(28) and 256.11(5) “*a*.”

e. Health (one unit). Health instruction is as referenced in Iowa Code sections 256.7(26) “*a*” (3), 256.11(5) “*j*,” and 279.50.

f. Physical education (one unit). Physical education, as well as any exemption or excusal, is as referenced in Iowa Code sections 256.11(5) “*g*” and 256.11(18).

g. Fine arts (two units). Fine arts instruction will include at least two of the following:

(1) Dance. Dance instruction encompasses developing basic movement skills, elementary movement concepts, study of dance forms and dance heritage, participating in dance, evaluating dance as a creative art, and using dance as an avocation or vocation.

(2) Music. Music instruction include skills, knowledge, and attitudes and the singing and playing of music; listening to and using music; reading and writing music; recognizing the value of the world’s musical heritage; respecting individual musical aspirations and values; preparing for consuming, performing, or composing; and using music as an avocation or vocation.

(3) Theatre. Theatre instruction encompasses developing the internal and external resources used in the theatre process; creating theatre through artistic collaboration; relating theatre to its social context; forming aesthetic judgments; and using theatre as an avocation or vocation.

(4) Visual art. Visual art instruction includes developing concepts and values about natural and created environments; critiquing works of art; evaluating relationships between art and societies; analyzing, abstracting, and synthesizing visual forms to express ideas; making art; and using visual art as an avocation or vocation.

h. World language (two units). The world language program will be a two-unit sequence of uninterrupted study in at least one language, which may include American Sign Language.

i. Career and technical education service areas—school districts (three units each in at least four of the six service areas). A minimum of three sequential units, of which only one may be a core unit,

will be taught in four of the six service areas as referenced by Iowa Code section 256.11(5) “h”; Iowa Code chapter 256, subchapter VII, part 2; and 281—Chapter 46.

j. Vocational education/nonpublic schools (five units). A nonpublic school that provides an educational program that includes grades 9 through 12 will comply with Iowa Code section 256.11B.

k. Personal finance literacy (one-half unit). Iowa Code section 256.11(5) “k” is incorporated by this reference.

l. Computer science (one-half unit). Iowa Code section 256.7(26) “a”(4) is incorporated by this reference.

12.5(6) Exemption from physical education course, health course, physical activity, or cardiopulmonary resuscitation course completion. Exemptions from these activities are governed by Iowa Code section 256.11(5) “g” and 256.11(6).

12.5(7) Career education. Iowa Code sections 256.9(42), 279.61, and 280.9 are incorporated by this reference.

12.5(8) Age-appropriate, multicultural and gender-fair approaches to the educational program. Iowa Code section 256.11’s provisions for an age-appropriate, multicultural, and gender-fair program are incorporated by this reference.

12.5(9) Special education. The board of each school district shall provide special education programs and services for its resident children that comply with rules of the state board of education implementing Iowa Code chapters 256, 256B, 273, and 280.

12.5(10) Global education. Iowa Code section 256.11’s provisions for a global education are incorporated by this reference.

12.5(11) Provisions for gifted and talented students. Iowa Code sections 257.42 through 257.49 are incorporated by this reference.

12.5(12) Provisions for at-risk students. Iowa Code sections 280.19 and 280.19A are incorporated by this reference.

12.5(13) Unit. A unit is a course that meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization; or it is an equated requirement as a part of a flexible student and school support program filed as prescribed in rule 281—12.9(256). A fractional unit will be calculated in a manner consistent with this subrule. Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit, unless otherwise provided by Iowa Code section 256.11.

12.5(14) Credit. A student shall receive a credit or a partial credit upon successful completion of a course that meets one of the criteria in subrule 12.5(13). The board may award high school credit to a student who demonstrates required competencies for a course or content area in accordance with assessment methods approved by the local board.

12.5(15) Subject offering. Except as provided for under subrule 12.5(20), a subject is regarded as offered when the teacher of the subject has met the licensure and endorsement standards of the state board of educational examiners for that subject; instructional materials and facilities for that subject have been provided; and students have been informed, based on their aptitudes, interests, and abilities, about possible value of the subject. A subject is regarded as taught only when students are instructed in it in accordance with all applicable requirements outlined herein. Subjects that the law requires schools and school districts to offer and teach shall be made available during the school day as defined in subrules 12.1(8) to 12.1(10).

12.5(16) Twenty-first century learning skills. Twenty-first century learning skills are as referenced in Iowa Code section 256.7(26) “a”(3).

12.5(17) Early intervention program. Iowa Code section 279.50(8) is incorporated by this reference.

12.5(18) Physical activity.

a. Iowa Code sections 256.11(6) and 256.11(18) are incorporated by this reference. In no event may a school or school district reduce the regular instructional time, as defined by “unit” in subrule

12.5(13), for any pupil to enable the pupil to meet the physical activity requirement. However, this requirement may be met by physical education classes, activities at recess or during class time, and before- or after-school activities.

b. Schools and school districts must provide documentation that pupils are being provided with the support to complete the physical activity requirement. This documentation may be provided through printed schedules, district policies, student handbooks, and similar means.

12.5(19) *Cardiopulmonary resuscitation course completion.* Cardiopulmonary resuscitation course completion requirements are as referenced in Iowa Code section 256.11(6).

12.5(20) *Contracted courses used to meet school or school district requirements.* Contracted courses used to meet school or school district requirements are as referenced in Iowa Code section 279.50A. [ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.6(256) Activity program. The following standards apply to the activity program of accredited schools and school districts.

12.6(1) *General guidelines.* Each board will sponsor a pupil activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program will be supervised by qualified professional staff and designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others.

12.6(2) *Supervised intramural sports.* If the board sponsors a voluntary program of supervised intramural sports for pupils in grades 7 through 12, qualified personnel and adequate facilities, equipment, and supplies will be provided. Middle school grades below grade 7 may also participate. [ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.7(256,284,284A) Professional development.

12.7(1) The standards set forth in the following Iowa Code sections apply to staff development for accredited schools and school districts: Iowa Code sections 256.7(3), 256.7(25), 256.9(47), 256.9(49), and 256.9(62) and chapter 284.

12.7(2) To meet the professional needs of all staff, professional development activities will align with district goals; will be based on student and staff information; will prepare all employees to work effectively with diverse learners and to implement age-appropriate, multicultural, gender-fair approaches to the educational program; and will adhere to the professional development standards in 281—paragraph 83.6(2) “*b*” to realize increased student achievement, learning, and performance. [ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.8(256) Accountability for student achievement. Schools and school districts shall meet the following accountability provisions for increased student achievement. Area education agencies will provide technical assistance as required by 281—subrule 72.4(7).

12.8(1) *School improvement advisory committee.* Each school and school district will establish a school improvement advisory committee that is governed by Iowa Code section 280.12.

a. Community involvement.

(1) Local community. The school or school district will involve the local community in decision-making processes as appropriate. The school or school district will seek input from the local community about, but not limited to, the following elements at least once every five years:

1. Statement of philosophy, beliefs, mission, or vision;
2. Major educational needs; and
3. Student learning goals.

(2) School improvement advisory committee. To meet provisions of Iowa Code section 280.12(2), the board will appoint and charge a school improvement advisory committee to make recommendations to the board. Based on the committee members’ analysis of the needs assessment data, the committee will make recommendations to the board about the following components:

1. Major educational needs;
2. Student learning goals;
3. Long-range goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement; and
4. Harassment or bullying prevention goals, programs, training, and other initiatives.

(3) At least annually, the school improvement advisory committee will also make recommendations to the board with regard to, but not limited to, the following:

1. Progress achieved with the annual improvement goals for the state indicators that address reading, mathematics, and science in subrule 12.8(3);
2. Progress achieved with other locally determined core indicators; and
3. Annual improvement goals for the state indicators that address reading, mathematics, and science achievement.

b. Data collection, analysis, and goal setting.

(1) Policy. The board will adopt a policy for conducting ongoing and long-range needs assessment processes. This policy will ensure involvement of and communication with the local community regarding its expectations for adequate preparation for all students as responsible citizens and successful wage earners. The policy will include provisions for keeping the local community regularly informed of progress on state indicators as described in subrule 12.8(3), other locally determined indicators and the methods a school district will use to inform kindergarten through grade 3 parents of their individual child's performance biannually. The policy will describe how the school or school district will provide opportunities for local community feedback on an ongoing basis.

(2) Long-range data collection and analysis. The long-range needs assessment process is to include provisions for collecting, analyzing, and reporting information derived from local, state, and national sources. The process will include provisions for reviewing information acquired over time on the following:

1. State indicators and other locally determined indicators;
2. Locally established student learning goals; and
3. Specific data collection required by federal and state programs.

Schools and school districts are to also collect information about additional factors influencing student achievement that may include, but are not limited to, demographics, attitudes, health, and other risk factors.

(3) Long-range goals. The board, with input from its school improvement advisory committee, will adopt long-range goals to improve student achievement in at least the areas of reading, mathematics, and science.

(4) Annual data collection and analysis. The ongoing needs assessment process will include provisions for collecting and analyzing annual assessment data on the state indicators, other locally determined indicators, and locally established student learning goals.

(5) Annual improvement goals. The board, with input from its school improvement advisory committee, will adopt annual improvement goals based on data from at least one districtwide assessment. The goals will describe desired annual increase in the curriculum areas of, but not limited to, mathematics, reading, and science achievement for all students, for particular subgroups of students, or both. Annual improvement goals may be set for the early intervention program as described in subrule 12.5(18), other state indicators, locally determined indicators, locally established student learning goals, other curriculum areas, future student employability, or factors influencing student achievement.

c. Content standards and benchmarks.

(1) Policy. The board will adopt a policy outlining its procedures for developing, implementing, and evaluating its total curriculum. The policy will describe a process for establishing content standards, benchmarks, performance levels, and annual improvement goals aligned with needs assessment information.

(2) Content standards and benchmarks. The board will adopt clear, rigorous, and challenging content standards and benchmarks in reading, mathematics, and science to guide the learning of students from the date of school entrance until high school graduation. Included in the local standards

and benchmarks are the core content standards from Iowa's approved standards and assessment system under the applicable provisions of the federal Elementary and Secondary Education Act. Standards and benchmarks may be adopted for other curriculum areas defined in rule 281—12.5(256).

d. Determination and implementation of actions to meet the needs. The school or school district will specify actions it will take in order to accomplish its long-range and annual improvement goals as established in Iowa Code section 280.12(1)“b.”

(1) Actions will include addressing the improvement of curricular and instructional practices to attain the long-range goals, annual improvement goals, and the early intervention goals as described in subrule 12.5(18).

(2) A school or school district will document consolidation of state and federal resources and requirements. State and federal resources will be used, as applicable, to support implementation of the plan.

(3) A school or school district may have building-level action plans.

e. Evaluation of plan. A school or school district will develop strategies to collect data and information to determine if it is accomplishing the goals it set.

f. Assessment of student progress. Each school or school district will provide for districtwide assessment of student progress for all students. It will identify valid and reliable student assessments aligned with local content standards, which include the core content standards referenced in subparagraph 12.8(1)“c”(2). These assessments are not limited to commercially developed measures. School districts receiving early intervention funding described in subrule 12.5(18) will provide for diagnostic reading assessments for kindergarten through grade 3 students.

(1) State indicators. Using at least one districtwide assessment, a school or school district will assess student progress on the state indicators in reading, mathematics, and science as specified in subrule 12.8(3). At least one districtwide assessment will allow for the comparison of the school or school district's students with students from across the state and in the nation in reading, mathematics, and science.

(2) Performance levels. A school or school district will establish at least three performance levels on at least one districtwide valid and reliable assessment in the areas of reading and mathematics for at least grades 4, 8, and 11 and science in grades 8 and 10 or use the achievement levels as established by the Iowa testing program to meet the intent of this subparagraph.

g. Assurances and support. A school or school district will provide evidence that its board has approved and supports the actions under this rule. This assurance includes the commitment for ongoing improvement of the educational system.

h. Statewide summative assessment.

(1) For purposes of this chapter, the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators is the summative assessment developed by the Iowa testing program within the University of Iowa college of education and administered by the Iowa testing program's designee. The department may require the Iowa testing program to enter into agreements with such designee to ensure the department is able to comply with Iowa Code chapter 256; this chapter; the provisions of the federal Every Student Succeeds Act, Pub. L. No. 114-95; the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and any other applicable state or federal law.

(2) For the school year beginning July 1, 2018, and each succeeding school year, the statewide summative assessment referred in this paragraph is to meet all of the following provisions:

1. All students enrolled in school districts in grades 3 through 11 will be administered an assessment in mathematics and English language arts, including reading and writing, during the last quarter of the school year, and all students enrolled in school districts in grades 5, 8, and 10 will be administered an assessment in science during the last quarter of the school year.

2. The assessment, at a minimum, will assess the core academic indicators identified in Iowa Code section 256.7(21)“b”; be aligned with the Iowa common core standards in both content and rigor; accurately describe student achievement and growth for purposes of the school, the school district, and state accountability systems; provide valid, reliable, and fair measures of student progress toward college

or career readiness; and meet the summative assessment provisions of the federal Every Student Succeeds Act, Pub. L. No. 114-95.

3. The assessment will be available for administration in both paper-and-pencil and computer-based formats and include assessments in mathematics, science, and English language arts, including reading and writing.

4. The assessment will be peer-reviewed by an independent third-party evaluator to determine that the assessment is aligned with the Iowa core academic standards, provides a measurement of student growth and student proficiency, and meets the summative assessment provisions of the federal Every Student Succeeds Act, Pub. L. No. 114-95. The assessment developed by the Iowa testing service within the University of Iowa college of education will make any necessary adjustments as determined by the peer review to meet the provisions of this paragraph.

5. The costs of complying with this paragraph will be borne by the Iowa testing program within the University of Iowa college of education.

12.8(2) Annual reporting. A school or school district will, at minimum, report annually to its local community about the progress on the state indicators and other locally determined indicators.

a. State indicators. A school or school district will collect data on the following indicators for reporting purposes:

(1) The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher reading status using at least three achievement levels and by gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

(2) The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher mathematics status using at least three achievement levels and for gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

(3) The percentage of all eighth and tenth grade students achieving proficient or higher science status using at least three achievement levels.

(4) The percentage of students considered as dropouts for grades 7 to 12 by gender, race, students with disabilities, and other subgroups as required by state or federal law.

(5) The percentage of high school seniors who intend to pursue postsecondary education/training.

(6) The percentage of high school students achieving a score or status on a measure indicating probable postsecondary success. This measure should be the measure used by the majority of students in the school, school district, or attendance center who plan to attend a postsecondary institution.

(7) The percentage of high school graduates who complete a core program of four years of English-language arts and three or more years each of mathematics, science, and social studies.

b. Annual progress report. Each school or school district will submit an annual progress report to its local community, its respective area education agency, and the department. That report will be submitted to the department by September 15 of each year. The report will include the following information:

(1) Baseline data on at least one districtwide assessment for the state indicators described in subrule 12.8(3). Every year thereafter the school or school district will compare the annual data collected with the baseline data. A school or school district is not to report to the community about subgroup assessment results when a subgroup contains fewer than ten students at a grade level. A school or school district will report districtwide assessment results for all enrolled and tuitioned-in students.

(2) Locally determined performance levels for at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. Student achievement levels as defined by the Iowa Testing Program may be used to fulfill this provision.

(3) Long-range goals to improve student achievement in the areas of, but not limited to, reading, mathematics, and science.

(4) Annual improvement goals based on at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. One annual improvement goal may address all areas, or individual annual improvement goals for each area may be identified. When a school or school district does not meet its annual improvement goals for one year, it shall include in its annual progress report the actions it will take to meet annual improvement goals for the next school year.

(5) Data on multiple assessments for reporting achievement for all students in the areas of reading, mathematics, and science.

(6) Results by individual attendance centers, as appropriate, on the state indicators as stated in subrule 12.8(3) and any other locally determined factors or indicators. An attendance center, for reporting purposes, is a building that houses students in grade 4 or grade 8 or grade 11.

(7) School districts are encouraged to provide information on the reading proficiency of kindergarten through grade 3 students by grade level. However, all school districts receiving early intervention block grant funds will report to the department the progress toward achieving their early intervention goals.

(8) Other reports of progress as the director of the department requires and other reporting requirements as the result of federal and state program consolidation.

12.8(3) Accreditation, monitoring, and enforcement. Accreditation, monitoring, and enforcement is as referenced in Iowa Code section 256.11(10) and 256.11(11).

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.9(256) Flexible student and school support program.

12.9(1) General. The flexible student and school support program is as referenced by Iowa Code section 256.11(8). Applications are due to the department on May 31 prior to the school year the application will be implemented. Each school district or nonpublic school approved to participate in the flexible student and school support program will file an annual report with the department on the status of the program in a format prescribed by the department by May 31. Participation in the flexible student and school support program may be renewed for additional periods of years, each not to exceed three years. The director may revoke approval of all or part of any application or approved education program if the annual report or any other information available to the department indicates that conditions no longer warrant use of an exemption or funding from the school district's flexibility account under Iowa Code section 298A.2(2). Notice of revocation must be provided by the director to the school district or nonpublic school prior to the beginning of the school year for which participation is revoked.

12.9(2) Annual report to the department. Each school district or nonpublic school approved to participate in the flexible student and school support program will file an annual report with the department on the status of the program in a format prescribed by the department by May 31.

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.10(256) Independent accrediting agencies. Notwithstanding Iowa Code section 256.11(1) through 256.11(12) and this chapter, a nonpublic school may be accredited by an independent accrediting agency that appears on a list maintained by the state board of education instead of being accredited by the state board.

12.10(1) Compliance required by a nonpublic school. Iowa Code section 256.11(16) is incorporated by this reference. New accrediting agencies must apply by November 1. New schools shall notify the department by April 1 if they wish to be included in the independently accredited list for the following school year. Each year the department will contact the approved accrediting agencies requesting an updated list of the schools that are accredited or in the accrediting process for the upcoming school year. This list is due to the department by April 1. A nonpublic school that participates in the accreditation process offered by an independent accrediting agency on the approved list published pursuant to this rule is deemed to meet the education standards of Iowa Code section 256.11 and this chapter. However, such a school shall comply with statutory health and safety requirements for school facilities. A nonpublic school accredited under this chapter shall abide by all state and federal laws and regulations. Notwithstanding Iowa Code section 256.11, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(2) List maintained by state board. The state board will maintain a list of approved independent accrediting agencies comprised of at least six regional or national nonprofit, nongovernmental agencies recognized as reliable authorities concerning the quality of education offered by a school and shall publish the list of independent accrediting agencies on the department's Internet site. The list will include accrediting agencies that, as of January 1, 2013, accredited a nonpublic school in this state that

was concurrently accredited under this rule and include any agency that has a formalized partnership agreement with another agency on the list and has member schools in this state as of January 1, 2013. Agencies that met this standard as of November 20, 2013, are the Independent Schools Association of the Central States (ISACS), Christian Schools International (CSI), Cognia, the National Lutheran Schools Association (NLSA), and the Association of Christian Schools International (ASCI).

12.10(3) *Criteria for recognizing an agency as a “reliable authority concerning the quality of education offered by a school.”* In any decision to add an agency to the list maintained pursuant to subrule 12.10(1) or to remove an agency from the list pursuant to subrule 12.10(2), the following criteria may be applied:

a. Whether the agency’s accreditation standards require a school to set high academic and nonacademic standards for all students, including preparation of students for postsecondary success.

b. Whether the agency’s accreditation standards require a school to monitor and assess all students’ progress toward high academic and nonacademic standards.

c. Whether the agency’s accreditation standards require a school to recruit and retain properly licensed quality professional staff, and provide those staff members with ongoing professional development.

d. Whether the agency’s accreditation standards set requirements for fiscal, data, and contract management.

e. Whether the agency monitors compliance with its standards and takes appropriate corrective action when standards are not met.

f. Whether the agency itself has appropriate fiscal, data, and contract management policies and procedures.

g. Any uncorrected citation of noncompliance by any governmental or nongovernmental agency or organization with jurisdiction or oversight of an accrediting agency listed pursuant to subrule 12.10(1).

h. Any uncorrected negative audit finding of an accrediting agency listed pursuant to subrule 12.10(1).

i. Any judgments, orders, decrees, consent decrees, settlement agreements, or verdicts concerning the agency listed pursuant to subrule 12.10(1) entered by any state or federal court of competent jurisdiction.

j. Whether the agency listed pursuant to subrule 12.10(1) continues to retain its nonprofit status.

k. Whether the agency listed pursuant to subrule 12.10(1) has received any form of recognition for innovation or excellence concerning its work.

l. Any other criterion used by the agency to determine accreditation.

m. Any other reports or findings sent to the nonpublic school regarding accreditation, including findings related to Iowa Code section 256.11.

12.10(4) *Removal of agency from approved independent accrediting agencies.* If the state board takes preliminary action to remove an agency from the approved list published on the department’s Internet site pursuant to subrule 12.10(1), the department will, at least one year prior to removing the agency from the approved list, notify the nonpublic schools participating in the accreditation process offered by the agency of the state board’s intent to remove the accrediting agency from its approved list of independent accrediting agencies. The department will give notice to the independent accrediting agency, along with an opportunity to respond. The notice will also be posted on the department’s Internet site and contain the proposed date of removal. If a nonpublic school receives notice pursuant to this subrule and it chooses to remain accredited, the nonpublic school is to attain accreditation under this rule or otherwise attain accreditation in a manner provided by this chapter or Iowa Code section 256.11, not later than one year following the date on which the state board removes the agency from its list of independent accrediting agencies.

12.10(5) *Rule of construction: “at least six.”* The obligation to maintain a list of at least six agencies in subrule 12.10(1) will not be construed to require the list to contain an agency that is not a regional or national nonprofit, nongovernmental agency recognized as a reliable authority concerning the quality of education offered by a school.

12.10(6) *Adoption by the department of standard procedures.* The department will adopt standard procedures, schedules, and forms for the implementation of this rule, including procedures for adding independent accrediting agencies from the list maintained by the state board pursuant to subrule 12.10(1) and removing agencies from that list pursuant to subrule 12.10(4).

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

281—12.11(256) High-quality standards for computer science. Iowa Code sections 256.7(26) and 256.9(61) are incorporated by this reference. A computer science professional development incentive fund is established in the state treasury under the control of the department. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. The department may disburse moneys contained in the fund for professional development activities or tuition reimbursement. Notwithstanding Iowa Code section 8.33, moneys in the computer science professional development incentive fund that remain unencumbered or unobligated at the close of the fiscal year will not revert but remain available for expenditure for the purposes designated until the close of the succeeding fiscal year. The department may disburse those moneys in the following ways:

1. A school district or accredited nonpublic school, or a collaborative of one or more school districts, accredited nonpublic schools, and area education agencies, may apply to the department, in the manner prescribed by the department, to receive moneys from the fund to provide proven professional development activities for Iowa teachers in the area of computer science education.

2. A school district or accredited nonpublic school may apply to the department, in the manner prescribed by the department, to receive moneys from the fund to provide tuition reimbursement for Iowa teachers seeking endorsements or authorizations for computer science under Iowa Code section 256.146(19).

[ARC 7787C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 256.11, 280.23, and 256.7(21).

[Filed 3/4/88, Notice 7/15/87—published 3/23/88, effective 4/27/88]¹

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]

[Filed 10/13/89, Notice 7/26/89—published 11/1/89, effective 12/6/89]

[Filed 9/13/91, Notice 2/6/91—published 10/2/91, effective 11/6/91]

[Filed 1/15/93, Notice 9/16/92—published 2/3/93, effective 3/10/93]

[Filed 2/11/94, Notice 10/27/93—published 3/2/94, effective 4/6/94]

[Filed 11/17/94, Notice 9/28/94—published 12/7/94, effective 1/11/95]

[Filed 10/24/97, Notice 8/27/97—published 11/19/97, effective 12/24/97]

[Filed 6/25/99, Notice 4/7/99—published 7/14/99, effective 8/18/99]

[Filed 1/16/01, Notice 10/4/00—published 2/7/01, effective 3/14/01]

[Filed 8/10/01, Notice 4/18/01—published 9/5/01, effective 10/10/01]

[Filed 11/16/05, Notice 9/28/05—published 12/7/05, effective 1/11/06]

[Filed 5/10/07, Notice 3/28/07—published 6/6/07, effective 7/11/07]

[Filed 11/14/07, Notice 8/15/07—published 12/5/07, effective 1/9/08][◊]

[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]

[Filed 2/8/08, Notice 12/19/07—published 2/27/08, effective 4/2/08]

[Filed 4/3/08, Notice 10/10/07—published 4/23/08, effective 5/28/08]

[Filed ARC 7783B (Notice ARC 7504B, IAB 1/14/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 0016C (Notice ARC 9909B, IAB 12/14/11), IAB 2/22/12, effective 3/28/12]²

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 0525C (Notice ARC 0297C, IAB 8/22/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 1115C (Notice ARC 0954C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]

[Filed ARC 1116C (Notice ARC 0958C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]

[Filed ARC 1118C (Notice ARC 0964C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]

[Filed ARC 1663C (Notice ARC 1527C, IAB 7/9/14), IAB 10/15/14, effective 11/19/14]

[Filed ARC 2312C (Notice ARC 2185C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]³

[Filed ARC 3765C (Notice ARC 3613C, IAB 2/14/18), IAB 4/25/18, effective 5/30/18]
[Filed ARC 3980C (Notice ARC 3822C, IAB 6/6/18), IAB 8/29/18, effective 10/3/18]
[Filed ARC 4527C (Notice ARC 4402C, IAB 4/24/19), IAB 7/3/19, effective 8/7/19]
[Filed ARC 4808C (Notice ARC 4682C, IAB 10/9/19), IAB 12/18/19, effective 1/22/20]
[Filed ARC 5325C (Notice ARC 5207C, IAB 10/7/20), IAB 12/16/20, effective 1/20/21]
[Filed ARC 5333C (Notice ARC 5149C, IAB 8/26/20), IAB 12/16/20, effective 1/20/21]
[Filed ARC 6291C (Notice ARC 6182C, IAB 2/9/22), IAB 4/20/22, effective 5/25/22]
[Editorial change: IAC Supplement 2/8/23]
[Filed ARC 7787C (Notice ARC 7583C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

◇ Two or more ARCs

¹ Effective date of Chapter 4 delayed 70 days by Administrative Rules Review Committee at its meeting held April 20, 1988.

² March 28, 2012, effective date of 12.3(3), 12.4(6), 12.4(14), 12.5(4)“l,” and 12.5(17) delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

³ January 13, 2016, effective date of ARC 2312C [12.8(1)“h”] delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2016.

CHAPTER 14
SCHOOL HEALTH SERVICES

DIVISION I
IN GENERAL

281—14.1(256) Medication administration. Each school district, area education agency, and school shall establish medication administration policy and procedures, which include the following:

14.1(1) A statement on administration of prescription and nonprescription medication.

14.1(2) A statement on an individual health plan pursuant to rule 281—14.2(256) when administration requires ongoing professional health judgment.

14.1(3) A statement that authorized persons administering medication include licensed health personnel working under the auspices of the school, such as licensed registered nurses, physicians, physician assistants, and persons to whom authorized practitioners have delegated the administration of prescription and nonprescription drugs (who have successfully completed a medication administration course). Individuals who have demonstrated competency in administering their own medications may self-administer their medication. Individuals may self-administer asthma or other airway constricting disease medication, use a bronchodilator canister or bronchodilator canister and spacer, or possess and have use of an epinephrine auto-injector with parent and physician (or physician assistant) consent on file for each school year, without the necessity of demonstrating competency to self-administer these medications. If a student misuses this privilege, it may be withdrawn. For purposes of this chapter, “self-administration” and “medication” mean the same as defined in Iowa Code section 280.16(1).

14.1(4) A provision for a medication administration course provided by the department that is completed every five years with an annual medication administration procedural skills check completed with licensed health personnel. Licensed health personnel working under the auspices of the school who delegate medication administration within their scope of practice will conduct the course. A record of course completion will be maintained by the school.

14.1(5) A provision that the individual’s parent provide a signed and dated written statement requesting medication administration at school.

14.1(6) A statement that medication will be in the original labeled container either as dispensed or in the manufacturer’s container.

14.1(7) A provision that a written medication administration record is to be on file at the school and include:

- a. Date.
- b. Individual’s name.
- c. Prescriber or person authorizing administration.
- d. Medication name and purpose, including the use of a bronchodilator canister or a bronchodilator canister and spacer or the use of an epinephrine auto-injector.
- e. Medication dosage.
- f. Administration time.
- g. Administration method.
- h. Signature and title of the person administering medication.
- i. Any unusual circumstances, actions or omissions.

14.1(8) A statement that medication shall be stored in a secured area unless an alternate provision is documented.

14.1(9) A provision for a written statement by the individual’s parent or guardian requesting the individual’s co-administration of medication, when competency is demonstrated.

14.1(10) A provision for emergency protocols for medication-related reactions.

14.1(11) A statement regarding confidentiality of information.

281—14.2(256) Special health services. Some individuals need special health services to participate in an educational program. These individuals will receive special health services along with their educational program.

14.2(1) Definitions. The following definitions are used in this rule, unless the context otherwise demands:

“Assignment and delegation.” “Assignment” means the routine health care, activities and health procedures that are within the licensed health personnel’s authorized scope of practice as defined by state law. “Delegation” means the process within the licensed health personnel’s scope of practice in transferring a task, skill, or procedure of the licensed health personnel to qualified designated personnel. Primary consideration is given to the recommendation of the licensed health personnel and health instruction competence of the delegate is documented to perform a specific activity, skill, or procedure that is beyond the qualified personnel’s traditional role and not routinely performed.

“Co-administration” means the eligible individual’s participation in the planning, management and implementation of the individual’s special health service and demonstration of proficiency to licensed health personnel.

“Educational program” includes all school curricular programs and activities both on and off school grounds.

“Education team” may include the individual, the individual’s parent, administrator, teacher, licensed health personnel, and others involved in the individual’s educational program. The education team may be the team under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973, both effective as of February 7, 2024, if the child is eligible under either of those statutes.

“Health assessment” means the systematic collection of data collected by the licensed health personnel to determine the student’s health status and initial plan of care, to identify any actual or potential health problems, or upon any significant change in the student’s status relating to the individual’s education program.

“Health instruction” means education by licensed health personnel to prepare qualified designated personnel to deliver and perform special health services contained in the eligible individual’s health plan. Documentation of education and periodic updates will be on file at school.

“Individual health plan” means the documented plan of care utilizing the nursing process as defined in 655—Chapter 6 for evidence-based management of the student’s ongoing special health service in the educational program. The school nurse may develop this plan in collaboration with the education team. The plan also includes a provision for emergencies to provide direction in managing an individual’s health condition (stable or unstable). Documentation of evaluation and updates to the plan are completed as needed and at least annually.

“Licensed health personnel” means a licensed registered nurse, licensed physician, licensed physician assistant, or other licensed health personnel legally authorized to delegate or provide special health services and medications under the auspices of the school.

“Prescriber” means licensed health personnel legally authorized to prescribe special health services and medications.

“Qualified designated personnel” means individuals who perform delegated tasks, activities and procedures beyond their traditional role who are instructed, supervised, and competent in implementing the eligible individual’s health plan or delegation of special health services.

“Special health services” includes services for eligible individuals whose health status (stable or unstable) necessitates:

1. Interpretation or intervention,
2. Administration of health procedures and health care, or
3. Use of a health device to compensate for the reduction or loss of a body function.

“Supervision” means the assessment, delegation, monitoring, and frequency of evaluation and documentation of special health services by licensed health personnel. Levels of supervision include situations in which:

1. Licensed health personnel are physically present.

2. Licensed health personnel are available at the same site.
3. Licensed health personnel are available on call.

14.2(2) *Special health services policy.* Each board of a public school or the authorities in charge of an accredited nonpublic school shall, in consultation with licensed health personnel, establish policy and guidelines for the provision of confidential special health services in conformity with this chapter. Such policy and guidelines will address the following:

a. Licensed health personnel provide special health services under the auspices of the school. Duties of the licensed health personnel include:

- (1) Participating as a member of the education team.
- (2) Providing the health assessment.
- (3) Planning, implementing and evaluating the written individual health plan.
- (4) Planning, implementing and evaluating special emergency health services.
- (5) Serving as a liaison and encouraging participation and communication with health service agencies and individuals providing health care.
- (6) Providing health consultation, counseling and instruction with the eligible individual, the individual's parent and the staff in cooperation and conjunction with the prescriber.
- (7) Maintaining a record of special health services. The documentation includes the eligible individual's name, special health service, prescriber or person authorizing, date and time, signature and title of the person providing the special health service and any unusual circumstances in the provision of such services.
- (8) Reporting unusual circumstances to the parent, school administration, and prescriber.
- (9) Assigning and delegating to, instructing, providing technical assistance to and supervising qualified designated personnel.

(10) Updating knowledge and skills to meet special health service needs.

b. Prior to the provision of ongoing special health services, the following are to be on file:

- (1) A written statement by the prescriber detailing the specific method and schedule of the special health service, when indicated.
- (2) A written statement by the individual's parent requesting the provision of the ongoing special health service.
- (3) A written individual health plan available in the health record and integrated into the IEP or 504 plan, if applicable, for ongoing health services and documentation of the education team meeting.

c. Licensed health personnel delegating health services, in collaboration with the education team, determine the special health services to be provided designated qualified personnel. The documented rationale will include the following:

- (1) Analysis and interpretation of the special health service needs, health status stability, complexity of the service, predictability of the service outcome and risk of improperly performed service.
- (2) Determination that the special health service, task, procedure or function is part of the person's job description.
- (3) Determination of the assignment and delegation based on the scope of the licensed personnel's practice, the student's needs and the qualifications of school personnel performing health services.
- (4) Review of the designated person's competency.
- (5) Determination of initial and ongoing level of supervision, monitoring and evaluation required for safe, quality services.

d. Licensed health personnel supervise the delegated special health services, define the level of frequency of supervision and document the supervision.

e. Licensed health personnel instruct qualified designated personnel to deliver and perform delegated special health services. Documentation of instruction, written consent of personnel pursuant to Iowa Code section 280.23 and evaluations are to be on file at the school.

f. Parents provide the usual equipment, supplies, and necessary maintenance of the equipment, unless the school is required to provide the equipment, supplies, and maintenance under the Individuals with Disabilities Education Act, effective February 7, 2024, and 281—Chapter 41 or Section 504 of the Rehabilitation Act of 1973, effective February 7, 2024. The equipment will be stored in a secure area.

The individual health plan is to designate the responsibilities roles of the school, parents and others in the provision, supply, storage and maintenance of necessary equipment.

14.2(3) Relationship between this rule and other laws and rules. In complying with this rule, for children who are eligible under the Individuals with Disabilities Education Act, effective February 7, 2024, and 281—Chapter 41 or Section 504 of the Rehabilitation Act of 1973, effective February 7, 2024, the school health services is to comply with any additional or differing provisions of those laws based on a specific child's needs.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.3(256) School district and accredited nonpublic school stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer voluntary supply.

14.3(1) Definitions. For the purpose of this rule, the following definitions apply:

“Act” means 2015 Iowa Acts, Senate File 462, which amended Iowa Code section 280.16 and created Iowa Code section 280.16A.

“Bronchodilator” means the same as defined in Iowa Code section 280.16(1)“a.”

“Bronchodilator canister” means the same as defined in Iowa Code section 280.16(1)“b.”

“Department” means the department of education.

“Epinephrine auto-injector” means the same as defined in Iowa Code section 280.16(1)“c.”

“Licensed health care professional” means the same as defined in Iowa Code section 280.16(1)“d.”

“Medication administration course” means a course approved or provided by the department that includes safe storage of medication, handling of medication, general principles, procedural aspects, skills demonstration and documentation requirements of safe medication administration in schools.

“Medication error” means the failure to administer an epinephrine auto-injector to a student or individual by proper route, failure to administer the correct dosage, or failure to administer an epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer according to generally accepted standards of practice.

“Medication incident” means accidental injection of an epinephrine auto-injector into a digit of the authorized personnel administering the medication.

“Personnel authorized to administer epinephrine or a bronchodilator” means the same as defined in Iowa Code section 280.16A(1)“e.”

“School building” means each attendance center within a school district or accredited nonpublic school where students or other individuals are present.

“School nurse” means the same as defined in Iowa Code section 280.16A(1)“f.”

“Spacer” means the same as defined in Iowa Code section 280.16A(1)“g.”

14.3(2) Applicability. This rule applies to and permits:

a. A licensed health care professional to prescribe a stock epinephrine auto-injector, a bronchodilator canister, or a bronchodilator canister and spacer in the name of a school district or accredited nonpublic school for use in accordance with the Act and this rule;

b. A pharmacist to dispense a stock supply pursuant to paragraph 14.3(2)“a”; and

c. A school district or accredited nonpublic school to acquire and maintain a stock supply pursuant to paragraphs 14.3(2)“a” and 14.3(2)“b.”

14.3(3) Prescription for stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers. A school district or accredited nonpublic school may obtain a prescription for epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers from a licensed health care professional annually in the name of the school district or accredited nonpublic school for administration to a student or individual who may be experiencing an anaphylactic reaction or may need treatment for respiratory distress, asthma, or other airway constricting disease. The school district or accredited nonpublic school is to maintain the supply of such auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers according to manufacturer instructions. If a school district or accredited nonpublic school obtains a prescription pursuant to the Act and these rules for epinephrine auto-injectors, the school district or accredited nonpublic school will stock a minimum of one pediatric dose and one adult dose for each school

building. A school district or accredited nonpublic school may obtain a prescription for more than the minimum and may maintain a supply in other buildings.

14.3(4) *Authorized personnel and stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer administration.* A school nurse or personnel trained and authorized may provide or administer an epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer from a school supply to a student or individual in circumstances authorized by Iowa Code section 280.16.

a. Pursuant to Iowa Code section 280.23, authorized personnel will submit a signed statement to the school nurse stating that the authorized personnel agree to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction or administering a bronchodilator canister or a bronchodilator canister and spacer to a student or individual experiencing respiratory distress, asthma, or other airway constricting disease.

b. Emergency medical services (911) will be contacted immediately after a stock epinephrine auto-injector is administered to a student or individual, and the school nurse or authorized personnel will remain with the student or individual until emergency medical services arrive. In the event of administration of a stock bronchodilator or bronchodilator canister and spacer to a student or individual, the school nurse will be contacted and will determine, based on professional judgment, the necessary care of a student or individual.

c. The administration of an epinephrine auto-injector, a bronchodilator, or a bronchodilator canister and spacer in accordance with this rule is not the practice of medicine.

14.3(5) *Stock epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer training.* School employees may obtain a signed certificate to become authorized personnel.

a. Training to obtain a signed certificate may be accomplished by:

(1) Successfully completing, every five years, the medication administration course provided by the department;

(2) Annually demonstrating to the school nurse a procedural return-skills check on medication administration;

(3) Annually completing an anaphylaxis, asthma, or airway constricting disease training program approved by the department;

(4) Demonstrating to the school nurse a procedural return-skills check on the use of an epinephrine auto-injector, bronchodilator canister, and bronchodilator canister and spacer using information from the training, using authorized prescriber instructions, and as directed by the prescription manufacturing label; and

(5) Providing to the school nurse a signed statement, pursuant to Iowa Code section 280.23, that the person agrees to perform one or more of the services described in this rule.

b. Training required after a medication error or medication incident. Authorized personnel or the school nurse directly involved with a medication error or medication incident involving the administration of stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers are required to follow the medication error or medication incident protocol adopted by the board of directors of the school district or authorities in charge of the school district or accredited nonpublic school. To retain authorization to administer stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers in the school setting, authorized personnel directly involved with a medication error or medication incident will be required to provide a procedural skills demonstration to the school nurse demonstrating competency in the administration of stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.

14.3(6) *Procurement and maintenance of stock epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer supplies.* A school district or accredited nonpublic school may obtain a prescription to stock, possess, and maintain epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.

a. Stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers will be stored in a secure, easily accessible area for an emergency within the school building, or in addition to other locations as determined by the school district or accredited nonpublic school, and in

accordance with the manufacturing label of the stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer.

b. A school district or school will designate an employee to routinely check stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers and document the following in a log monthly throughout the calendar year:

- (1) The expiration date;
- (2) Any visualized particles or color change, for epinephrine auto-injectors; or
- (3) Bronchodilator canister damage.

c. The school district or school will develop a protocol to replace as soon as reasonably possible any logged epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer that is used, is damaged, is close to expiration, or is discolored or has particles visible in the epinephrine auto-injector liquid.

14.3(7) *Disposal of used stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.* The school district or school that administers epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers shall dispose of used cartridge injectors as infectious waste pursuant to the department's medication waste guidance and bronchodilators or bronchodilator canisters and spacers pursuant to the department's medication waste guidance. For purposes of this rule, a multiuse bronchodilator canister is considered "used" when it no longer contains sufficient active ingredient to be medically useful.

14.3(8) *Reporting.* A school district or school that obtains a prescription for stock medications under this rule will report to the department within 48 hours, using the reporting format approved by the department, each medication incident or error with the administration of a stock epinephrine injector, bronchodilator canister, or bronchodilator canister and spacer or administration of a stock epinephrine auto-injector.

14.3(9) *School district or accredited nonpublic school policy.* A school district or school may stock epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school that stocks epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers shall establish a policy and procedure for the administration of a stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer, which is to comply with the minimum provisions of this rule.

14.3(10) *Rule of construction.* This rule will not be construed to require school districts or accredited nonpublic schools to maintain a stock of epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers. An election not to maintain such a stock is not to be considered to be negligence.

14.3(11) *Opioid antagonists.* A school district may obtain a valid prescription for an opioid antagonist and maintain a supply of opioid antagonists in a secure location at each location where a student may be present for use as provided in this rule. Any school district that does so is to comply with rules and procedures adopted by the department of health and human services.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.4(279) Suicide prevention, identification of adverse childhood experiences, and strategies to mitigate toxic stress response. Iowa Code section 279.70 is incorporated by this reference.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.5(256,280) Severability. If any provisions of this chapter or the application thereof to any person or circumstance are held invalid, such invalidity does not affect the provisions or application of this chapter that can be given effect, and to this end the provisions of this chapter are declared to be severable.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code sections 135.185, 256.7(33), 279.70 and 280.16.

DIVISION II
COMPREHENSIVE HEALTHY AND SAFE LEARNING ENVIRONMENTS

281—14.6(279) Purpose and objectives: comprehensive healthy and safe learning environments. The purpose of this division is to provide uniform definitions and rules for public schools, accredited nonpublic schools, and area education agencies (AEAs) regarding standards for professional development and training in evidence-based classroom management practices, evidence-based interventions, appropriate and inappropriate responses to behavior in the classroom that present an imminent threat of bodily injury to a student or another person, and in accordance with 281—Chapter 103 for the reasonable, necessary, and appropriate physical restraint of a student. This division gives clear guidance that classroom clearance may be used only to terminate or prevent a threat of bodily injury and clarifies the required parental notification, response, and reporting of school behavior challenges.

This division also provides clarification of Iowa AEAs', public school districts', and accredited nonpublic school districts' responsibilities and the responsibilities of behavioral health service providers under Iowa Code section 280A.1, should they choose to enter into agreements for behavioral health screenings or telehealth services.

This division is intended to promote a comprehensive safe learning space for learners and school staff, and to promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies resulting in increased learning for all students; lessen disruption to instruction; and expand supports for educators through teacher preparation, revised protocols, training and professional learning.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.7(279) Definitions. For the purposes of this division:

“Assault” means the same as defined in Iowa Code section 708.1.

“Bodily injury” or *“injury”* means physical pain, illness, or any other impairment of physical condition. For purposes of required reporting, the injury is to be the result of intentional act and not accidental and a physical injury to a person's body that is apparent within 24 hours after the incident and may include damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition. Mental or verbal insult is not covered by this definition.

“Classroom clear” means clearing all other students out of the classroom to calm a child or to address disruption by a child. It is not necessary to use the phrase “classroom clear” to be covered by this division. The mere use of the term “classroom clear” does not bring that activity within the coverage of this division. Using another term for a “classroom clear” does not remove that activity from the coverage of this division. A classroom clear is not either of the following:

1. Removing other students from a classroom to preserve a student's dignity/privacy in the event of a medical emergency, health issue, or both, or
2. Emergency procedures a school/district may use in the event of a school crisis or natural disaster.

“Classroom management” means the set of skills, practices, and strategies teachers use to maintain productive and prosocial behaviors that enable effective instruction in whole class or small group settings.

“Department” means the Iowa department of education.

“Evidence-based” means an activity, strategy or intervention that demonstrates a significant effect on improving student outcomes or other relevant outcomes. Activities, strategies, or interventions with strong or moderate evidence should be prioritized.

“Parent” means an individual included in the definition of “parent” in rule 281—41.30(256B,34CFR300) and also includes an individual authorized to make decisions for the child pursuant to a power of attorney for temporary delegation of custody or for making educational decisions.

“Physical restraint” means the same as defined in rule 281—103.2(256B,280).

“Property damage” means serious damage to property of significant monetary value or significant nonmonetary value or importance because of violence. For purposes of required reporting, the property

damage must be the result of intentional act and not accidental. In assessing significant nonmonetary value for purposes of this definition, the following will be considered: the property is not of significant monetary value but difficult to replace or its loss or damage impedes learning, or an object(s) used as a weapon resulting in damage to the object or property.

“Reasonable and necessary force” means that force, and no more, which a reasonable person would judge to be necessary under the circumstances that existed at the time, that is not intended to cause pain, and that does not exceed the degree or duration needed to accomplish the purposes set forth in rule 281—103.5(256B,280).

“School district” means an Iowa public school district directly supported in whole or in part by tax dollars, as defined in Iowa Code section 280.2, and with the power and jurisdiction provided by Iowa Code section 274.1.

“Social-emotional-behavioral health” or *“SEBH”* means social, emotional, behavioral and mental well-being that affects how one thinks, feels, communicates, acts, and learns. These contribute to resilience and to how one relates to others, responds to stress and emotions, and makes choices. Foundational knowledge and skills that promote SEBH include self-awareness, self-management, responsible decision-making, social awareness, and relationship skills that support positive well-being and academic success.

“Therapeutic classroom” means a classroom designed for the purpose of providing support for any student whose emotional, social, or behavioral needs interfere with the student’s ability to be successful in the current educational environment, with or without supports, until the student is able to successfully return to the student’s current education environment, with or without supports, including but not limited to the general education classroom. It is not necessary to use the phrase “therapeutic classroom” to be covered by this division. The mere use of the term “therapeutic classroom” does not bring those services or locations within the coverage of this division. Using another term for a “therapeutic classroom” does not remove that service or location from the coverage of this division.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.8(279) Classroom clears.

14.8(1) A classroom teacher may clear students from the classroom only if necessary to prevent or terminate an imminent threat of bodily injury to a student or another person in the classroom. A threat is imminent when it is reasonably likely to inflict pain, illness, or any other impairment of physical condition.

14.8(2) A classroom clear means clearing all other students out of the classroom to calm a child. A classroom clear in which an adult remains with a student to calm the student is not considered seclusion.

14.8(3) The limitations on use of classroom clears pertains to all classrooms, general and special education, ages 3 through 21, when a child is served in a setting that is using public funds for educational purposes.

14.8(4) If a classroom clear is included within a school’s or district’s crisis response plan, the school or district will also follow the additional provisions of Iowa Code section 279.51A and this division.

14.8(5) In determining if a classroom clear may be used to prevent or terminate an imminent threat, the following factors apply:

- a. The size and physical, mental, and psychological condition of the student;
- b. The nature of the student’s behavior;
- c. The presence of a weapon or material that can be weaponized;
- d. The extent and nature of resulting bodily injury to the student and other persons in the classroom; and
- e. The prevention of physical intervention that will likely escalate behavior and result in bodily injury.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.9(279) Required parent/guardian notifications and responses.

14.9(1) General. If a classroom clear is used to prevent an imminent threat, the following notifications and actions shall occur:

- a. The school principal will, by the end of the school day if possible, but at least within 24 hours after the incident, notify the parents/guardians of all students assigned to the classroom that it was cleared.
- b. The notification will not identify, directly or indirectly, any students involved in the incident giving rise to the classroom clearance.
- c. The principal will request that the parent/guardian of the student whose behavior caused the classroom clear meet with the principal, the classroom teacher, and other staff as appropriate.

14.9(2) *Students with disabilities.* When a student with a disability whose behavior caused a classroom clear and has an individualized education program (IEP) or a behavioral intervention plan (BIP), the classroom teacher will call for and be included in a review and potential revision of the student's IEP or BIP by the student's IEP team. The AEA, in collaboration with the school district, may, when the parent or guardian meets with the IEP team during the review or reevaluation of the student's IEP, inform the parent or guardian of individual or family counseling services available in the area. The public agencies are to provide those services if those services are necessary for a free appropriate public education, pursuant to 281—subrule 41.320(7).

14.9(3) *Students without disabilities.*

- a. If a student does not have an IEP or a BIP, the meeting will include an intervention plan that reduces the likelihood of the recurrence of behaviors requiring a classroom clear.
- b. If a student has a BIP but does not have an IEP, the classroom teacher will call for and be included in a review and potential revision of the student's behavioral intervention plan.
- c. If the school suspects the student whose behavior resulted in a classroom clear might be eligible for a BIP, individual health plan (IHP), safety plan, or IEP, the public agencies shall promptly determine the child's eligibility in accordance with the procedures required for determining eligibility.

14.9(4) *Parent input.* The team is to consider parent input in identifying supports to address behaviors that caused the classroom clear.

- a. If the parent of a student with an IEP chooses not to participate in the meeting, the school will follow procedures to document efforts to invite the parent, as required by rule 281—41.322(256B,34CFR300), and inform the parent of proposed changes to the IEP or BIP, or both, pursuant to rule 281—41.503(256B,34CFR300).
- b. If the parent of a student without an IEP chooses not to participate in the meeting, the school will continue to support the student's needs by planning and providing intervention for the student.

14.9(5) *Additional provisions.* When calling for a meeting, the classroom teacher may be required to follow procedures established by the school district or AEA to request such a meeting. Any recommended change to a student's behavior intervention plan, individual health plan, safety plan, or educational placement is to be made in accordance with the procedures required for amending said plan or changing said placement.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.10(279) Documentation and reporting.

14.10(1) *General.* A classroom teacher shall report to the principal any incident of assault or violence that results in injury or property damage by a student enrolled in the school. For purposes of this rule, "attending students" includes all students who are actively attending school, suspended or expelled during the reporting school year. Districts should document all incidents that occur in a school building, on school grounds, or at a school-sponsored function by students attending school in the district. The school district shall report to the department, in a manner prescribed by the department, an annual count of disaggregated incidents of assault, violence resulting in injury, violence resulting in property damage, and referral/transfer to a therapeutic classroom that includes the therapeutic components as described in subrule 14.13(2). Incidents shall be reported if they occurred by a student in a school building, on school grounds, or at a school-sponsored function.

14.10(2) *Contents of report.* The report will include demographic information on students reported as victims and perpetrators, disaggregated by race, gender, national origin, age, grade level, and disability status, along with any other data needed by the department to implement the Elementary and Secondary

Education Act as amended by the Every Student Succeeds Act, Public Law 114-95, as effective on February 7, 2024, and with safeguards to ensure student privacy.

14.10(3) Reporting by the department. The department of education will compile and summarize the data it receives under this rule and submit a report to the general assembly each year by November 1. [ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.11(256) Crisis response.

14.11(1) General. The following consists of appropriate responses to classroom behavior that presents an imminent threat of bodily injury and consistent with rules for seclusion and restraint:

- a. Responses are to include nationally recognized best practices of crisis response/intervention to de-escalate behaviors that are likely to result in bodily harm.
- b. Crisis response strategies are to include a safety assessment and continuum of strategies informed by the level of risk and the safety assessment.
- c. When possible, response strategies are to use less disruptive, nonphysical intervention prior to the use of physical interventions, unless the circumstances are such that physical intervention is necessary to ensure the safety of the student and others.

14.11(2) Use of reasonable force. Notwithstanding the ban on corporal punishment in rule 281—103.3(256B,280), no employee subject to these rules is prohibited from using reasonable and necessary force in compliance with this chapter and 281—Chapter 103. An employee is not privileged to use unreasonable force to accomplish any of the purposes listed in this chapter and 281—Chapter 103. If physical force is used, school employees shall comply with any provisions of 281—Chapter 103 and this chapter.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.12(256) Prevention of classroom behaviors that present an imminent threat.

14.12(1) Appropriate responses to behaviors, including classroom behavior that presents an imminent threat of bodily injury, are to be part of evidence-based tiered supports within the department's continuous improvement framework to support student SEBH.

14.12(2) The evidence-based tiered supports will:

- a. Include universal support for all students that foster the emotional well-being of students through schoolwide safe and supportive environments.
- b. Be culturally responsive.
- c. Be trauma responsive.
- d. Include positive school discipline practices.
- e. Include crisis prevention, intervention and de-escalation that is based on student SEBH needs and reasonable in response to the behavior that is being exhibited.
- f. Include proactive strategies that enable schools to identify and intervene early in order to minimize the escalation of identified behavioral health symptoms and other barriers to school success.
- g. Include classroom management practices that include the following evidence-based practices:
 - (1) An effectively designed physical classroom.
 - (2) Predictable classroom routines.
 - (3) Posted positive classroom expectations.
 - (4) Prompts and active supervision.
 - (5) Varied opportunities to respond.
 - (6) Acknowledgments for expected behavior.
- h. Engage parents and guardians as partners in identifying appropriate supports for the students.
- i. Support student development of social-emotional competencies and skills through planned universal instruction.
- j. Have a set of specific supplemental interventions and intensive intervention supports that:
 - (1) Are for students whose behaviors are unresponsive to low-intensity strategies.
 - (2) Are based on functional behavior assessment (FBA).
 - (3) Are supported by individuals trained to handle such issues.

- (4) Involve parents in development and ongoing review.
 [ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.13(256) Therapeutic classroom. A school district may include therapeutic classrooms as part of its district's or building's tiers of SEBH supports. A therapeutic classroom is designed for the purpose of providing support for any student, with or without an IEP, whose emotional, social, or behavioral needs interfere with the student's ability to be successful in the current educational environment, with or without supports, until the student is able to successfully return to the student's current education environment, with or without supports, including but not limited to the general education classroom. A placement in a therapeutic classroom shall not be permanent or indefinite but will be reviewed periodically as called for in this rule. For the purpose of this chapter, the word "classroom" is a descriptor of an educational set of services that create the educational environment that may include a separate physical setting from other students.

14.13(1) Continuum of programming. Therapeutic classrooms include the therapeutic programming students may need to support them across a range of educational settings or learning spaces, or both, and are not necessarily standalone or isolated classrooms. Therapeutic classroom supports are part of a district's tiers of SEBH supports.

14.13(2) Therapeutic classrooms. For state cost reimbursement and reporting purposes, a therapeutic classroom will:

- a. Include the following therapeutic components:
 - (1) A multidisciplinary team who collaborates regularly to support design, implementation and decision-making regarding therapeutic program supports including but not limited to an individual qualified to conduct diagnostic assessments and support SEBH programming for individuals with social-emotional concerns;
 - (2) Practices that enhance positive childhood experiences;
 - (3) Clearly articulated and taught behavioral expectations and routines;
 - (4) Regular assessment of social-emotional competencies with targeted individualized instruction, small group social-emotional instruction, or both;
 - (5) Individualized BIPs developed based on FBAs and trauma-informed practice;
 - (6) Regular engagement of family to review progress and make decisions for more or less restrictive programming;
 - (7) Supports for generalization and transition to less restrictive supports/settings since a therapeutic classroom is a temporary intervention. Supports include opportunities to practice social-emotional skills in natural contexts with similar age/grade peers.
- b. Be operated by and housed in the school district seeking reimbursement.
- c. Have appropriately licensed and certified teacher(s).
- d. Follow program standards for the age(s) served and the full extent of the district's comprehensive education program, including:
 - (1) Preschool programs follow preschool program standards, as specified in 281—Chapter 16;
 - (2) Prekindergarten through twelfth grade programs follow 281—Chapter 12;
 - (3) Programs that serve students with IEPs also follow 281—Chapter 41.
- e. Not solely consist of any one of the following:
 - (1) Calming room/space;
 - (2) Single strategy or program without individualization;
 - (3) Space/location for disciplinary action;
 - (4) Seclusion room.

14.13(3) General education students. When general education students are served through a therapeutic classroom, the following must occur:

- a. The therapeutic classroom has to have clear requirements for referral, admission, progress monitoring, and exit that focus on supporting learners to return to general services,
- b. Each general education student has an individualized BIP developed based on an FBA,

c. When a student receives therapeutic services for 50 percent or more of the school day, a team of qualified professionals, the teacher, and the family will review the BIP every 60 days to consider the need for transition to more or less intensive programming,

d. If, at any point, public agencies suspect a disability, the public agencies are to request consent for a full and individual evaluation for special education from the parent pursuant to 281—Chapter 41.

14.13(4) *Special education students.* Districts operating therapeutic classrooms that serve learners with IEPs will follow 281—Chapter 41, including provisions for education in the least restrictive environment.

14.13(5) *Consortium agreements.* A district may enter into a cost-sharing consortium agreement with one or more school districts or area education agencies to provide therapeutic classroom supports. Districts shall not enter into an agreement to purchase or hold seats in a therapeutic classroom. If a district seeks cost reimbursement for student(s) who attend a therapeutic classroom:

- a. The therapeutic classroom is to be housed within the district's boundaries;
- b. The district seeking reimbursement is fiscally responsible for the therapeutic classroom;
- c. The district seeking reimbursement is responsible for operating the therapeutic classroom.

14.13(6) *Rule of construction.* A school district is not required to operate a therapeutic classroom; however, a school district is required to ensure therapeutic services are available, whether in-district or otherwise, to students who need those services to access or benefit from an education.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.14(256) Therapeutic classroom—claims. A school district may submit claims to the department for the costs of providing therapeutic classroom services and transportation services in accordance with this rule and Iowa Code section 256.25A.

14.14(1) *Reimbursement of transportation services.* If the general assembly appropriates moneys for purposes of transportation claims reimbursement in accordance with this subrule, the resident school district may submit a claim to the department for reimbursement for transportation services for a student who is transported to a therapeutic classroom operated by another school district or accredited nonpublic school and located more than 30 miles from the student's designated school or accredited nonpublic school.

a. Claims are allowable for students enrolled in the school district or in an accredited nonpublic school located in the district boundary and who do not have an assigned special education weighting.

b. Such claims may be allowable when the school districts or school district and accredited nonpublic school have a shared agreement to provide the therapeutic classroom.

c. Claims will be made to the department of education using an invoice supplied by the department and completed by the school district providing transportation during the school year.

d. Claims include a listing of actual costs per student transported to a therapeutic classroom, including number of days transported, transportation miles, and other actual costs.

14.14(2) *Claims for reimbursement of services.*

a. By June 15, 2022, and annually by June 15 thereafter, districts may submit a claim for reimbursement of therapeutic classroom services for the prior school year.

b. By July 1 of each year, the department will draw warrants payable to school districts for such claims.

c. On June 15, 2022, and continuing each June 15 thereafter, districts providing therapeutic classrooms may submit a claim for reimbursement to the department for students served by their therapeutic classroom during the prior school year who have BIPs but no IEP weighting. Districts may submit claims for 1.5 weighting for the number of days they served the student and the number of days in the school district's calendar.

d. School districts will collect student-level data throughout the year and submit it at the end of the year using a department invoice.

e. In order for the school district to submit a claim for reimbursement for students attending an accredited nonpublic school or receiving competent private instruction, the student will be counted as a shared-time student in the district in which the nonpublic school of attendance is located.

f. Reimbursement will be prorated if claims exceed the amount appropriated.

g. Claims must include: student served in a therapeutic classroom, confirmation the student has a BIP and does not have a weighted IEP for the period claimed, number of days served and the number of days in the school district's calendar.

h. The costs of providing transportation to nonpublic school pupils as provided in this rule will not be included in the computation of district cost under Iowa Code chapter 257 but will be shown in the budget as an expense from miscellaneous income. Any transportation reimbursements received by a school district for transporting nonpublic school pupils do not affect district cost limitations of Iowa Code chapter 257. The reimbursements provided in this rule are miscellaneous income as defined in Iowa Code section 257.2.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.15(256,279,280) Required training. This rule applies to public schools, nonpublic school districts and area education agencies.

14.15(1) An employee must receive training that complies with 281—Chapter 103 prior to using any form of physical restraint or seclusion and includes research-based alternatives to physical restraint and seclusion.

14.15(2) An employee must receive training regarding the least restrictive environment. While there is a presumption that the general education environment is the least restrictive environment, data may overcome that presumption. "General education classroom" is not synonymous with "least restrictive environment." Training will include the process and procedures for:

a. Making placement decisions based on individual student performance data and participation with peers without disabilities; and

b. Reviewing student performance data to determine whether changes need to be made to ensure the individual is being educated in the learner's least restrictive environment.

14.15(3) AEA staff, classroom teachers and school administrators shall receive training prior to using a classroom clear to calm a student. Training shall be reviewed regularly, but no less frequently than once every three school years, and cover the following topics:

a. The rules of this chapter;

b. The school's specific policies and procedures regarding the rules of this chapter;

c. Training on recognizing and responding to incidents that are an imminent threat of bodily injury;

d. Student, parent/guardian, and staff notifications and parent follow-up requirements;

e. Reporting requirements for incidents of assault and violence resulting in injury or property damage;

f. Reporting requirements for referral and transfer to therapeutic classroom(s);

g. The school's specific crisis response plan for incidents of imminent threat;

h. Staff supports following a crisis or significant event.

14.15(4) Within one year of beginning employment in a teaching position in Iowa, a classroom teacher shall receive training on the prevention of behaviors that present an imminent threat. Training must include the following topics:

a. The school's specific policies and procedures for creating learning environments that are safe and supportive.

b. Evidence-based culturally responsive approaches to student discipline.

c. Evidence-based classroom management strategies that include:

(1) An effectively designed physical classroom.

(2) Predictable classroom routines.

(3) Posted positive classroom expectations.

(4) Prompts and active supervision.

(5) Varied opportunities to respond.

(6) Acknowledgments for expected behavior.

d. Universal instruction of social-emotional competencies.

e. Engaging families as partners in identifying appropriate supports for learner success.

f. Crisis prevention, crisis intervention, and crisis de-escalation techniques consistent with rule 281—14.4(279).

14.15(5) AEA and school district staff who engage in intervention planning to support supplemental and intensive social-emotional interventions shall receive training on evidence-based interventions for challenging classroom behaviors. Training must include the following topics:

- a.* FBAs;
- b.* Using FBAs to design BIPs;
- c.* Individual safety plans;
- d.* Supports for student reentry to learning following a significant event;
- e.* Supports for teacher implementation of BIPs;
- f.* Crisis prevention, crisis intervention, and crisis de-escalation techniques consistent with rule 281—14.4(279) that are culturally responsive and trauma responsive;
- g.* Duties and responsibilities of school resource officers and other responders; the techniques, strategies and procedures used by responders; and knowledge of who in the building is trained and authorized in seclusion and restraint;
- h.* Documentation and notification requirements for incidents of seclusion, restraint, classroom clear and transfer/referral to a therapeutic classroom.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.16(256) Department responsibilities, evidence-based standards, guidelines and expectations. By June 30, 2022, the department will develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that present an imminent threat of bodily injury to a student or another person to assist the districts in compliance with this rule. The standards, guidelines, and expectations will be consistent with 281—Chapter 103. The evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury will be based on the department’s continuous improvement framework to support student social-emotional-behavioral health (SEBH). The director will consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this rule.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code chapters 256, 279 and 280.

281—14.17 to 14.19 Reserved.

DIVISION III
SCHOOL BEHAVIORAL HEALTH SCREENING AND TELEHEALTH

281—14.20(256B,280A) Definitions. For the purposes of this division, the definitions contained in Iowa Code section 280A.1 are incorporated by this reference.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.21(280A) Behavioral health screenings in school settings.

14.21(1) A school district, an accredited nonpublic school, or an AEA may contract with a mental health professional or a nationally accredited behavioral health care organization in order to provide universal behavioral health screenings to students. If the school district, accredited nonpublic school, or area education agency contracts with mental health professionals to conduct behavioral health screenings, the following paragraphs apply:

- a.* The screenings will be administered with the contracted mental health professional present, using a screener approved by the department, in consultation with the department of health and human services.

b. The school district, accredited nonpublic school, or AEA that contracts for on-site student behavioral health screenings will obtain written parent or guardian consent or, in the case of a student who has reached the age of majority, the student's written consent prior to the student's participating in each screening.

c. At any point before or during the screening, a student may opt out or discontinue participation in the screening without retribution.

14.21(2) The parental consent is to allow for the mental health professional to disclose the screening results to the school or AEA if there is a credible threat to the health and safety of the student or others and provide the appropriate emergency contact. The parental consent may allow for the mental health professional to disclose screening information to the school or AEA in order to support the student(s) who may need intervention that could be provided through the school.

14.21(3) The school district or AEA will ensure that the mental health professionals contracted to administer the screeners are qualified to administer the selected behavioral health screener.

14.21(4) The school district or AEA will have procedures to secure and limit the access to health information to comply with the Health Insurance Portability and Accountability Act (HIPAA), effective February 7, 2024, in accordance with parental consent.

14.21(5) If a mental health professional conducts the screening and determines that a student needs additional behavioral health services, the mental health professional:

a. Notifies the parent or guardian of the student of the results of the screening.

b. May notify the student's primary care provider, with parent or guardian consent, or the consent of the student who has reached the age of majority.

c. May provide a list of local primary care providers to the parent or guardian if the student does not have a primary care provider.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.22(280A) Establishment of provider-patient relationship for telehealth in school setting.

14.22(1) Iowa Code section 280A.3(1), 280A.3(3), and 280A.3(4) are incorporated by this reference.

14.22(2) If a mental health professional provides behavioral health services via telehealth on school/AEA premises, the mental health professional will first establish a valid provider-patient relationship. The provider-patient relationship is established when:

a. The student, with the consent of the student's parent or guardian when the student has not yet reached the age of majority, seeks help from a mental health professional;

b. The mental health professional agrees to provide treatment of the student; and

c. The student's parent or guardian agrees to have the student treated by the mental health professional.

14.22(3) If a provider-patient relationship is established and the student has not yet reached the age of majority, parent or guardian consent will be obtained prior to the student receiving behavioral health services via telehealth in a school or AEA setting and is necessary each academic year that the student receives telehealth services.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

281—14.23(280A) Behavioral health services provided via telehealth in a school setting. Iowa Code section 280A.4 is incorporated by this reference.

[ARC 7788C, IAB 4/17/24, effective 5/22/24]

[Filed ARC 2311C (Notice ARC 2183C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

[Filed ARC 3387C (Notice ARC 3088C, IAB 6/7/17), IAB 10/11/17, effective 11/15/17]

[Filed ARC 4294C (Notice ARC 4157C, IAB 12/5/18), IAB 2/13/19, effective 3/20/19]

[Filed ARC 5739C (Notice ARC 5580C, IAB 4/21/21), IAB 6/30/21, effective 8/4/21]

[Filed ARC 7041C (Notice ARC 6880C, IAB 2/8/23), IAB 6/28/23, effective 8/2/23]

[Filed ARC 7788C (Notice ARC 7584C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 15
ONLINE AND VIRTUAL LEARNING

281—15.1(256) Definitions.

“*Accredited nonpublic school*” means a nonpublic school accredited pursuant to Iowa Code section 256.11.

“*Appropriately licensed and endorsed*” or “*appropriately licensed*” means possession of current and valid licensure by the Iowa board of educational examiners to practice at a prescribed educational level in a specified content area.

“*Area education agency*” or “*AEA*” refers to a political subdivision organized pursuant to Iowa Code chapter 273.

“*Board of educational examiners*” or “*BOEE*” refers to the body with the statutory responsibility to license Iowa educators.

“*Delivered primarily over the Internet*” means more than 50 percent of the course content or instruction or both is delivered using the Internet.

“*Department*” means the department of education.

“*Director*” means the director of the department of education.

“*Exclusive instruction*” means without the use of any other form of instructional delivery.

“*Online learning*” and “*online coursework*” mean educational instruction and content that are delivered primarily over the Internet. “Online learning” and “online coursework” do not include print-based correspondence education, broadcast television or radio, videocassettes, or stand-alone educational software programs that do not have a significant Internet-based instructional component.

“*Online learning platform*” means a set of services by which students access course content and by which students and teachers connect and communicate.

“*Online school*” refers to a district or nonpublic school providing educational instruction and course content delivered primarily over the Internet for a group of students for whom this method of delivery is the primary method of education. “Online school” also refers to a school for which a district accepts open enrollment for the express purpose of attendance at the online school and that has received permission from the department to operate.

“*Participating school district or accredited nonpublic school*” means a school district or accredited nonpublic school that is providing online learning or online coursework.

“*Private provider*” means, for purposes of this chapter, any public or private entity that is not a school district, an accredited nonpublic school, or an AEA.

“*School district*” means a political subdivision organized pursuant to Iowa Code chapter 274.

“*Telecommunications*” means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live communications. “Telecommunications” does not include online learning.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.2(256) Telecommunications for instruction.

15.2(1) *Applicability.* This rule applies to all AEAs, school districts, accredited nonpublic schools, community colleges, and institutes of higher education using telecommunications to serve students in kindergarten through grade 12.

15.2(2) *Course eligibility.* Telecommunications may be employed as a means to deliver any course, including a course necessary for accreditation by the department, provided it is not the exclusive means of instructional delivery.

15.2(3) *Appropriately licensed and endorsed teachers.* Instruction provided by telecommunications is to be taught by an appropriately licensed and endorsed teacher, in a manner provided by Iowa Code section 256.7(7)“a.”

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.3(256) Online learning—private providers.

15.3(1) *Online learning model established.* An online learning program model is established by the director, pursuant to Iowa Code section 256.9, that provides districts and accredited nonpublic schools with a list of approved online providers. Approved providers will meet criteria for approval in accordance with Iowa Code section 256.43(1)“a.”

15.3(2) *Use of approved private providers.* Courses developed by private providers may be utilized by a school district or school in implementing a high-quality online learning program in circumstances described in Iowa Code section 256.43(2)“a.”

15.3(3) *Approval criteria.* The department will maintain a list of approved online providers that provide course content through an online learning platform whose content and delivery meet the following provisions:

- a. Courses meet the standards of Iowa Code section 256.7(32)“c.”
- b. The provider supplies coursework customized to the needs of the student.
- c. The provider offers a means for a student to demonstrate competency in completed online coursework.
- d. Courses provide online content and instruction evaluated on the basis of student learning outcomes.

15.3(4) *Approval process.* Private providers of online course content or full-time online instruction will apply for approval to offer such services to Iowa school districts and accredited nonpublic schools a minimum of once every five years on forms provided by the department. Applications to provide services may be received at any time; however, the department will give preference to applications received no later than May 1 during the year prior to the school year in which the provider intends to provide services. Applications received by the deadline of May 1 will be answered no later than June 1. An approved provider will also apply in each year that any of these alterations take place, which are substantial in nature:

- a. The provider altered the courses or content offered by either adding or subtracting grade levels or subjects.
- b. The provider altered the delivery of the courses or content offered by altering the learning management system or delivery of assessments.
- c. The provider altered the evaluation of student learning used in the system.
- d. The provider altered the online learning content or delivery in any other way that may reasonably be considered material to a school district considering the use of a private provider.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.4(256) Online learning provided by area education agencies.

15.4(1) *Online learning program delivered by area education agencies.* Subject to an appropriation of funds by the general assembly for this purpose, AEAs may provide an online learning program to deliver distance education to Iowa’s secondary students, including students receiving competent private instruction under Iowa Code chapter 299A. An AEA may provide an online learning program separately, in collaboration with other AEAs, or in partnership with school districts and accredited nonpublic schools.

15.4(2) *Student participation.* To participate in an online learning program offered by an AEA, a student must be enrolled in a participating school district or accredited nonpublic school or be receiving competent private instruction under Iowa Code chapter 299A.

15.4(3) *District responsibility.* The school district or accredited nonpublic school in which the student is enrolled is responsible for:

- a. Recording a student’s program coursework grades in the student’s permanent record.
- b. Awarding high school credit for program coursework.
- c. Issuing a high school diploma to a student enrolled in the district or school who participates and completes coursework under the program.
- d. Identifying a site coordinator to serve as a student advocate and as a liaison between the program staff and teachers and the school district or accredited nonpublic school.

15.4(4) Cost. School districts and accredited nonpublic schools will pay to AEAs the actual cost of providing coursework under an online learning program offered in accordance with this rule.

15.4(5) Course content and delivery. Content and delivery provided by an online learning program established pursuant to this rule must meet the provisions of Iowa Code section 256.7(32) “c.” Grades in online courses are awarded based on Iowa Code section 256.43(3).

15.4(6) Competent private instruction. This rule applies to students receiving competent private instruction under Iowa Code chapter 299A. To participate in an online learning program offered by an area education agency, a student receiving competent private instruction under Iowa Code chapter 299A will take whatever steps are necessary to enroll with the student’s district of residence. The coursework offered by AEAs pursuant to this subrule must be taught and supervised by a teacher appropriately licensed by the BOEE who has online learning experience, and the course content must meet the provisions of Iowa Code section 256.7(32) “c.”

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.5(256) Online learning program provided by a school district—online schools.

15.5(1) Online learning program provided by a school district. A school district may provide an online learning program delivered primarily over the Internet that operates as an online school. Such a program is governed by Iowa Code section 256.41.

15.5(2) Course content and delivery. Content and delivery provided by an online learning program established pursuant to this rule must meet the provisions of Iowa Code section 256.7(32) “c.” Grades in online courses are awarded based on Iowa Code section 256.43(3).

15.5(3) Approval criteria. The department will maintain a list of approved school districts that provide course content through an online learning platform whose content and delivery meet the provisions of subrule 15.5(2).

15.5(4) Approval process. School district providers of online course content or full-time online instruction will apply for approval to offer such services to Iowa districts and accredited nonpublic schools a minimum of once every five years on forms provided by the department. If a school district is providing full-time online instruction only to its resident students and not to any other students, the school district need not seek approval; however, the school district must ensure it meets the provisions of subrules 15.5(1) and 15.5(2). Applications may be received at any time; however, the department will give preference to applications received no later than May 1 during the year prior to the school year in which the provider intends to provide services. Applications received by the deadline of May 1 will be answered no later than June 1. An approved district provider under this rule will also apply in each year that any of these alterations take place, which are substantial in nature:

a. The provider altered the courses or content offered by either adding or subtracting grade levels or subjects.

b. The provider altered the delivery of the courses or content offered by altering the learning management system or delivery of assessments.

c. The provider altered the evaluation of student learning used in the system.

d. The provider altered the online learning content or delivery in any other way that may reasonably be considered material to a school district considering the use of a private provider.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.6(256) Online learning provided by a school district or accredited nonpublic school—courses.

15.6(1) Course content and delivery. A school district or accredited nonpublic school may provide an online learning program to deliver online learning and online coursework to students attending the district or school. Content and delivery provided by an online learning program established pursuant to this rule must meet the provisions of Iowa Code section 256.7(32) “c.” Grades in online courses are awarded based on Iowa Code section 256.43(3).

15.6(2) Use to meet general accreditation standards. Any course that is not part of the offer-and-teach standards for grades 9 through 12 may be provided by an area education agency, by the school district or accredited nonpublic school, or through an online learning platform or online

exchange offered by the department in collaboration with area education agencies, school districts, or accredited nonpublic schools. Online courses may be used to meet offer-and-teach standards for grades 9 through 12 in the circumstances described in Iowa Code section 256.11(17)“a.” Additionally, a school district or accredited nonpublic school may apply for an annual waiver of the standards for up to two specified subjects in the circumstances described in Iowa Code section 256.11(17)“b.”

15.6(3) *Delivery options for general accreditation standards.* Delivery of coursework used to meet general accreditation standards is governed by Iowa Code section 256.11(17)“c.”

15.6(4) *Competent private instruction.* The online learning platform described in subparagraph 15.8(3)“b”(3) may deliver distance education to students receiving competent private instruction under Iowa Code chapter 299A, provided such students register with the school district of residence and the coursework offered by the online learning platform is taught and supervised by a teacher appropriately licensed by the BOEE who has online learning experience, and the course content meets the provisions of Iowa Code section 256.7(32)“c.”

15.6(5) *Coordination and costs.* The department and the area education agencies operating online learning programs pursuant to Iowa Code section 273.16 will coordinate to ensure the most effective use of resources and delivery of services. Federal or other funds, if available, may be used to offset what would otherwise be costs to school districts for participation in the program.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.7(256) Open enrollment. Content and delivery provided online pursuant to rule 281—15.3(256), 281—15.4(256), 281—15.5(256) or 281—15.6(256) may be provided to pupils who are participating in open enrollment under Iowa Code section 282.18.

15.7(1) *Courses.* A school district may provide individual courses it developed, or any other courses developed pursuant to this chapter (including courses developed by private providers), delivered primarily over the Internet to pupils who are participating in open enrollment under Iowa Code section 282.18.

15.7(2) *Termination.* If a student’s participation in open enrollment to receive educational instruction and course content delivered primarily over the Internet results in the termination of enrollment in the receiving district, the receiving district will, within 30 days of the termination, notify the district of residence of the termination and the date of the termination.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.8(256) Online learning—access by students receiving competent private instruction. Students enrolled in competent private instruction pursuant to Iowa Code chapter 299A may participate in online instruction pursuant to subrules 15.4(6) and 15.6(4). The individual providing instruction to a student under Iowa Code chapter 299A as described in Iowa Code section 299A.1(1) will receive the student’s score for completed program coursework.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.9(256,256B) Online learning—students with disabilities.

15.9(1) Children with disabilities are not to be categorically excluded from admission to online learning programs or from enrollment in online coursework.

15.9(2) Whether an online course or online learning is appropriate to a child with a disability must be determined by the child’s needs, not by the child’s assigned weighting under Iowa Code section 256B.9. If a child’s individualized education program (IEP) goals cannot be met in online learning, with or without supplementary aids and services or modifications, online learning is not appropriate to the child.

15.9(3) If a child’s IEP team determines that online learning is inappropriate to the child, the child’s parents are entitled to prior written notice pursuant to rule 281—41.503(256B,34CFR300) and to have available to them the procedural safeguards provided under rule 281—41.504(256B,34CFR300).

15.9(4) When a child with an IEP seeks open enrollment into an online learning program, the child’s IEP team will determine whether the child meets the open enrollment provisions of 281—Chapter 17. In addition, the child’s IEP team, together with representatives of the resident and receiving districts

and the relevant area education agencies, will determine whether the receiving district is able to provide an appropriate online education to the child, either with or without supplementary aids and services or modifications. Any dispute about whether the receiving district's program is appropriate will be resolved pursuant to 281—Chapter 17. The child is to remain in the child's resident district while any dispute about the appropriateness of the receiving district's program is pending.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

281—15.10(256) Department general supervision of telecommunications and online learning.

15.10(1) *Nature of general supervision.* The department will exercise general supervision over compliance with this chapter and offer advice and technical assistance to foster compliance and improved outcomes. This will be accomplished by department staff.

15.10(2) *Data collection and reporting.*

a. Each school district and accredited nonpublic school will list and describe the online coursework offered by the school district or accredited nonpublic school in which the student is enrolled.

b. A school district providing educational instruction and course content delivered primarily over the Internet that is required to seek approval under subrule 15.5(4) will annually submit to the department, in the manner prescribed by the department, data sought by the department, including data specified in Iowa Code section 256.7(32)“b”(1).

c. The department will comply with the responsibilities set out in Iowa Code section 256.7(32)“b.”

15.10(3) *Accreditation criteria.* All online courses and programs shall meet existing accreditation standards.

15.10(4) *Prohibited activities.* A rebate for tuition or fees paid or any other dividend or bonus moneys for enrollment of a child shall not be offered or provided directly or indirectly by a school district, school, or private provider to the parent or guardian of a pupil who enrolls in a school district or school to receive educational instruction and course content delivered primarily over the Internet.

15.10(5) *Rules of construction.*

a. Nothing in this chapter will be construed to require a school district, accredited nonpublic school, or AEA to use a particular assessment, curricular material, online learning platform, provider, or textbook.

b. Unless otherwise prescribed by a state or federal law protecting students with disabilities, or in accordance with a proclamation of public health disaster emergency issued by the governor pursuant to Iowa Code section 29C.6, nothing in this chapter will be construed to require a school district or accredited nonpublic school to offer continuous remote learning, to maintain a program of continuous remote learning, to deliver instruction primarily over the Internet, to continue delivering instruction primarily over the Internet, or to become or remain an approved provider of online learning.

c. Schools may use virtual learning or online learning for days of inclement weather to count toward the minimum school calendar to the extent permitted by the Iowa Code.

d. The Iowa learning online (ILO) initiative was repealed by 2020 Iowa Acts, chapter 1107, section 10. Any remaining references to ILO in any department policy, document, or procedure will be construed to comply with this chapter until that policy, document, or procedure is amended, corrected, rescinded, or repealed.

e. This chapter will be broadly construed to allow school districts, accredited nonpublic schools, and AEAs to meet the needs of individual students and the local community.

15.10(6) *Prohibition on offering a completely online educational program.* Unless specifically authorized by statute or by a governor's proclamation on a temporary basis, no school district, accredited nonpublic school, or AEA is authorized to provide a completely online educational program, including completely online instruction for a particular grade. All school districts, accredited nonpublic schools, and AEAs will maintain a physical presence for their educational programs.

[ARC 7789C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 256.7(32), 256.9(55), 256.11(17), 256.41, and 256.43.

[Filed 4/13/90, Notice 1/10/90—published 5/2/90, effective 6/6/90]
[Filed ARC 0522C (Notice ARC 0302C, IAB 8/22/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 2313C (Notice ARC 2118C, IAB 9/2/15), IAB 12/9/15, effective 1/13/16]
[Filed ARC 2861C (Notice ARC 2760C, IAB 10/12/16), IAB 12/7/16, effective 1/11/17]
[Filed ARC 3981C (Notice ARC 3823C, IAB 6/6/18), IAB 8/29/18, effective 10/3/18]
[Filed ARC 4295C (Notice ARC 4158C, IAB 12/5/18), IAB 2/13/19, effective 3/20/19]
[Filed ARC 5740C (Notice ARC 5581C, IAB 4/21/21), IAB 6/30/21, effective 8/4/21]
[Filed ARC 5866C (Notice ARC 5737C, IAB 6/30/21), IAB 8/25/21, effective 9/29/21]
[Filed ARC 7789C (Notice ARC 7585C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 17
OPEN ENROLLMENT AND OTHER ENROLLMENT OPTIONS

DIVISION I
OPEN ENROLLMENT

281—17.1(282) Definitions. For the purpose of this chapter, the indicated terms are defined as follows:

“*Alternative receiving district*” means a district to which a parent/guardian petitions for the open enrollment of a pupil from a receiving district. An alternative receiving district could be the district of residence of the parents/guardians.

“*Attendance center*” means a public school building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.

“*Court-ordered desegregation plan*” means a decree, judgment, or order entered by a court in response to a case or controversy alleging the district engaged in unlawful segregation. A desegregation plan is not “court-ordered” merely because a school district seeks approval of a voluntarily developed desegregation plan.

“*Department*” means the department of education.

“*Director*” means the director of the department or the director’s designee.

“*Open enrollment*” is the procedure allowing a parent/guardian to enroll one or more pupils in a public school district other than the district of residence at no tuition cost to the parent.

“*Receiving district*” is the public school district in which a parent/guardian desires to have the pupil enrolled or the district accepting the application for enrollment of a pupil under the provisions of Iowa Code section 282.18.

“*Resident district*” is the district of residence for school purposes of the parent/guardian and the district in which an open enrollment pupil will be counted for the purpose of generating state aid regardless of the district in which the pupil is enrolled.

“*Sending district*” is synonymous with the term resident district.

“*Sibling*” means a child residing primarily in the same household as the child for whom an open enrollment request is filed and who is related by adoption, blood or marriage to the child for whom an open enrollment request is filed. “Sibling” also includes a foster child who is placed in the same household as the child for whom an open enrollment request is filed.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.2(282) Application process. The following procedure is to be used by parents/guardians and school districts in processing open enrollment applications.

17.2(1) Parent/guardian responsibilities. Iowa Code section 282.18 governs the application process and responsibilities for parents/guardians and school districts. An application completed and submitted under this rule will include all information set forth in Iowa Code section 282.18(2) “a.”

17.2(2) Petition for attendance in an alternative receiving district. Once the pupil of a parent/guardian has been accepted for open enrollment, attendance in an alternative receiving district under open enrollment can be initiated by filing a petition for change with the receiving district. The timelines and notification provisions for such a request are the same as outlined in subrule 17.2(3).

17.2(3) School district responsibilities.

a. The board of the resident district takes no action on an open enrollment request except for a request made under rule 281—17.3(282). The parent/guardian may withdraw an open enrollment request any time prior to the board’s action on the application.

b. The board of the receiving district will act on an open enrollment request as outlined in Iowa Code section 282.18(2) “b.”

c. The board of the receiving district will comply with the provisions of rule 281—17.10(282) if the application for open enrollment is for a pupil requiring special education as provided by Iowa Code chapter 256B.

d. If the application is a request to attend in an alternate receiving district, the alternative district will send notice of this action to the parent/guardian, to the original receiving district, and to the resident

district of the pupil. Petitions for change will be for not less than one year. A pupil in good standing may return to the district of residence at any time following written notice from the parent/guardian to both the resident district and the receiving district.

e. Notification to parents.

(1) By September 30 of each school year, all districts must notify parents of the following:

1. Transportation assistance; and
2. Possible loss of athletic eligibility for open enrollment pupils.

(2) This notification may be published in a school newsletter, a newspaper of general circulation, a website, or a parent handbook provided to all patrons of the district. This information will also be provided to any parent/guardian of a pupil who enrolls in the district during the school year.

17.2(4) *Exception to process when resident district is under court-ordered desegregation.* If the resident district has a court-ordered desegregation plan, the superintendent of the resident district may act upon the request for transfer as outlined in Iowa Code section 282.18(3)“a.” A denial by the superintendent may be appealed following the procedures outlined in Iowa Code section 282.18(3)“b.” [ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.3(282) Court-ordered desegregation plans.

17.3(1) *Applicability.* These rules govern only the components of a court-ordered desegregation plan as the plan affects open enrollment requests.

17.3(2) *Nature of court-ordered desegregation plan.* The language of the court order outlines a district’s implementation of open enrollment. The district will notify the department of any court-ordered desegregation plan and any court-ordered modifications to that plan.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.4(282) Open enrollment for kindergarten or certain prekindergarten programs.

A parent/guardian of a kindergarten pupil or a parent/guardian of a prekindergarten student enrolled in a special education program and eligible to be included in the resident school district’s basic enrollment under Iowa Code section 257.6(1)“a”(1) may request to enroll the pupil or student in a district other than the district of residence. In considering an application under this rule, the resident and the receiving district are not precluded from administering board-adopted policies related to insufficient classroom space, the provisions of rule 281—17.11(282), or the provisions of a desegregation order. As an alternative procedure, the receiving board may, by policy, authorize the superintendent to approve, but not deny, applications filed under this rule.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.5(282) Open enrollment and online coursework.

17.5(1) *General.* A school district may provide courses developed by private providers and delivered primarily over the Internet to pupils who are participating in open enrollment under Iowa Code section 282.18. However, if a student’s participation in open enrollment to receive educational instruction and course content delivered primarily over the Internet results in the termination of enrollment in the receiving district, the receiving district will, within 30 days of the termination, notify the district of residence of the termination and the date of the termination.

17.5(2) *Participation in activities in the resident district.* A pupil participating in open enrollment for purposes of receiving educational instruction and course content primarily over the Internet in accordance with Iowa Code section 256.7(32) may participate in any cocurricular or extracurricular activities offered to children in the pupil’s grade or group and sponsored by the district of residence under the same conditions and requirements as the pupils enrolled in the district of residence. The pupil may participate in not more than two cocurricular or extracurricular activities during a school year unless the resident district approves the student’s participation in additional activities. The student will comply with the eligibility, conduct, and other requirements relating to the activity that are established by the district of residence for any student who applies to participate or who is participating in the activity.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.6(282) Limitations on open enrollment requests. A district board may apply the following provisions related to open enrollment requests:

17.6(1) *Court-ordered desegregation plans.* If the resident district has a court-ordered desegregation plan, the superintendent of the resident district may act upon the request for transfer as outlined in Iowa Code section 282.18(3)“a.” A denial by the superintendent may be appealed following the procedures outlined in Iowa Code section 282.18(3)“b.”

17.6(2) *Policy on insufficient classroom space.* No receiving district is required to accept an open enrollment request if it has insufficient classroom space to accommodate the pupil(s). Each district board must adopt a policy which defines the term “insufficient classroom space” for that district. This policy will establish a basis for the district to make determinations on the acceptance or denial, as a receiving district, of an open enrollment request. This policy may include, but is not limited to, one or more of the following: nature of the educational program, grade level, available instructional staff, instructional method, physical space, pupil-teacher ratio, equipment and materials, facilities either being planned or under construction, facilities planned to be closed, finances available, sharing agreement in force or planned, bargaining agreement in force, special education class size or caseload established pursuant to rule 281—41.408(256B,273,34CFR300), or board-adopted district educational goals and objectives. This policy will be reviewed annually by the district board.

17.6(3) *Designation of attendance center.* The right of a parent/guardian to request open enrollment is to a district other than the district of residence, not to an attendance center within the nonresident district. In accepting an open enrollment pupil, the receiving district board has the same authority it has in regard to its resident pupils as provided by Iowa Code section 279.11, to “determine the particular school which each child shall attend.” In the application process, however, the parent or guardian may request an attendance center of preference.

17.6(4) *Expelled or suspended students.* A pupil who has been suspended or expelled by action of the administration or board of the resident district is not permitted to enroll if an open enrollment request is filed until the pupil is reinstated for school attendance in the resident district. Once reinstated, the application for open enrollment will be considered in the same manner as any other open enrollment request. If a pupil for whom an open enrollment request has been filed is subsequently expelled by action of the resident district board, the pupil may be denied enrollment by the receiving district board until the pupil is reinstated for school attendance by the resident district. The provisions of this subrule also apply to a pupil who has been suspended or expelled in a receiving district and is requesting open enrollment to an alternative receiving district or is seeking to return to the resident district as outlined in subrule 17.2(3).

17.6(5) *Participation in interscholastic athletic contests and competitions.* A student in grades 9 through 12 whose transfer of schools had occurred due to a request for open enrollment by the student’s parent or guardian is ineligible to compete in interscholastic athletics during the first 90 school days of transfer except that a student may participate immediately if the student is entering grade 9 for the first time and did not participate in an interscholastic athletic competition for another school during the summer immediately following eighth grade. The period of ineligibility applies only to varsity-level contests and competitions. (“Varsity” means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) If a pupil is declared ineligible for interscholastic athletic contests and athletic competitions in the pupil’s district of residence due to the pupil’s academic performance, upon participating in open enrollment, in addition to any other period of ineligibility under this rule, the pupil will be ineligible in the receiving district for the remaining period of ineligibility declared by the district of residence.

a. The period of ineligibility does not apply if the board of directors of the district of residence and the board of directors of the receiving district both agree to waive the ineligibility period or under any reason outlined in Iowa Code section 282.18(9).

b. The resident district may charge the receiving district for participation in cocurricular or extracurricular activities in accordance with Iowa Code section 282.18(5).

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.7(282) Provisions applicable to parents/guardians and students.

17.7(1) *Renewal of an open enrollment agreement.* An open enrollment agreement remains in place unless canceled by the parent/guardian or terminated as outlined in the provisions of subrule 17.7(5).

17.7(2) *Change in residence when participating in open enrollment.* If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent/guardian has the option to leave the pupil in the receiving district under open enrollment or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement.

If the pupil is to remain under open enrollment or to open enroll to another school district, the parent/guardian will write a letter, delivered by mail, by hand, or by electronic means, to notify the original resident district, the new resident district, and the receiving district of this decision. Requests under this rule shall not be denied. If the request is for a high school pupil, the pupil is not subject to the initial 90-school-day ineligibility period of subrule 17.6(5).

17.7(3) *Change in residence when not participating in open enrollment.* If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program. The parent/guardian exercising this option will file an open enrollment request form with the new district of residence for processing and record purposes. Requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil is not subject to the initial 90-school-day ineligibility period of subrule 17.6(5). If the move is on or after the date specified in Iowa Code section 257.6(1), the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

a. This subrule applies in the following circumstances: a change in family residence, a change in a child's residence from the residence of one parent or guardian to the residence of a different parent or guardian, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program.

b. This rule applies to the following children:

(1) A child who is enrolled in any grade from kindergarten through grade 12.

(2) A prekindergarten student who is enrolled in a special education program at the time of the request and is not currently using any provision of open enrollment.

17.7(4) *Pupil governance.* An open enrollment pupil and, where applicable, the pupil's parent/guardian is governed by the rules and policies established by the board of directors of the receiving district. Any complaint or appeal by the parent/guardian concerning the educational system, its process, or administration in the receiving district will be initially directed to the board of directors of that district in compliance with the policy of that district.

17.7(5) *Open enrollment termination.* Open enrollment ends when:

a. The pupil graduates, moves into the receiving district, moves into a third district and does not elect to continue attending in the receiving district, moves out of state, elects to attend a nonpublic school instead of the receiving district, or any other circumstance not excepted below that results in the pupil no longer attending the receiving district.

EXCEPTIONS: This rule does not apply if the pupil is placed temporarily in foster care, a juvenile detention center, mental health or substance abuse treatment facility, or other similar placement. In such cases, the open enrollment status will automatically be reinstated when the pupil returns.

b. The pupil drops out of school. In this instance, if the pupil desires to return to the resident district during the term of the original open enrollment, notice will be given as outlined in the provisions of subrule 17.2(3).

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.8(282) Transportation.

17.8(1) Parent responsibilities. The parent/guardian of a pupil who has been accepted for open enrollment is to be responsible to transport the pupil without reimbursement, except as provided in subrule 17.8(2), to a point on a regular school bus route of the receiving district as defined in Iowa Code section 282.18(8) "a." A receiving district may send buses into a resident district solely for the purpose of transporting an open enrollment pupil if the boards of both the sending and receiving districts agree to this arrangement. Bus routes that are outside the boundary of the receiving district that have been authorized by an area education agency board of directors, as provided by Iowa Code section 285.9(3), may be used to transport open enrollment pupils if boards of directors of the resident and receiving districts have both acted to approve such an arrangement. Bus routes that have been established by the receiving district for the purpose of transporting nonpublic school or special education pupils that operate in the resident district of an open enrollment pupil cannot be utilized for the transportation of such pupil for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both acted to approve such an arrangement. Bus routes transporting pupils for the purpose of whole-grade sharing cannot be used to transport open enrollment pupils for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both acted to approve such an arrangement.

17.8(2) Economic qualifications, eligibility and provisions for transportation assistance. Open enrollment pupils who meet the economic eligibility provisions established by the department of education will receive transportation assistance from their resident district under the terms and conditions established by the department and state board of education as outlined in Iowa Code section 282.18(8) "c." The resident district may withhold from the amount it is required to pay to a receiving district for an open enrollment pupil the actual amount or the average cost per pupil transported amount it pays for transportation assistance, whichever is the lesser amount.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.9(282) Method of finance. Open enrollment options are available for pupils at no instructional cost to their parents/guardians. Open enrollment pupils are considered enrolled resident pupils in the resident district and are included in the certified enrollment count of that district for the purposes of generating school foundation aid.

17.9(1) Full-time pupils. The resident district will pay each year to the receiving district an amount equal to the sum of the state cost per pupil for the previous year; plus any moneys received pursuant to Iowa Code section 282.18(7) "b"(1). If the pupil participating in open enrollment is also an eligible pupil under Iowa Code section 261E.6 (postsecondary enrollment options program), the receiving district will pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

17.9(2) Dual enrolled pupils. For pupils who receive competent private instruction and are dual enrolled, the resident district will pay each year to the receiving district an amount equal to 0.1 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of English learner weighting provided by Iowa Code section 280.4. However, a pupil dual enrolled in grades 9 through 12 will be counted by the receiving district in the same manner as a shared-time pupil under Iowa Code section 257.6(1) "c."

17.9(3) Home school assistance program pupils. For pupils who receive competent private instruction and are registered for a home school assistance program, the resident district will pay each year to the receiving district an amount equal to 0.3 times the state cost per pupil under Iowa Code chapter 257 for the previous year plus any moneys received for the pupil as a result of English learner weighting provided by Iowa Code section 280.4.

17.9(4) Transportation assistance. The resident district may deduct any transportation assistance funds for which the pupil is eligible as provided by subrule 17.8(2).

17.9(5) Method of payment. These moneys will be paid to the receiving district by the resident district during the period of open enrollment according to the timeline in Iowa Code section 282.20(3). The district cost per pupil for nonspecial education students will be the cost calculated each year for

the school year preceding the school year for which the open enrollment takes place. Costs for special education students are outlined in rule 281—17.10(282).

17.9(6) *Partial-year situations.* If a pupil participating in open enrollment attends school in the receiving district for any reason for less than a full school year, payment from the district of residence at the time of open enrollment to the receiving district is prorated on a per diem basis.

17.9(7) *Supplemental weighting.* A student under open enrollment is eligible to be counted for supplementary weighting pursuant to 281—Chapter 97 for qualifying concurrent enrollment classes in which the student is enrolled, including concurrent enrollment classes provided via the Iowa communications network (ICN), or supplementary weighting for project lead the way (PLTW) enrollment through sharing with a community college. An open enrolled student who is under competent private instruction (CPI) will be weighted in the student's receiving district, and no tuition will be billed to the resident district. An open enrolled student who is not under CPI will be weighted in the resident district, and the funding will be sent to the receiving district in addition to open enrollment tuition.

a. If the open enrolled student is present in the resident district on October 1 of the school year, the resident district will count the student, excluding a student under CPI, for supplementary weighting.

b. The concurrent enrollment course needs to qualify for supplementary weighting in the receiving district pursuant to 281—Chapter 97, and the PLTW course needs to qualify for supplementary weighting in the receiving district pursuant to the same chapter.

c. The resident district will forward the weighting generated for the concurrent or PLTW enrollment for that student using the district cost per pupil of the school year. The amount generated is calculated as the supplementary weighting full-time-equivalency for that one student for each qualified concurrent or PLTW enrollment course multiplied by the current school year's district cost per pupil in the resident district.

d. The receiving district will pay the community college the tuition negotiated for the course. The tuition negotiated may cost the receiving district a different amount than that received from the resident district. No additional amount may be charged to the resident district, the student, or the parent, guardian, or legal custodian.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.10(282) *Special education students.* If a parent or guardian requests open enrollment for a pupil requiring special education, as provided by Iowa Code chapter 256B and 281—Chapter 41, this request will receive consideration under the following conditions.

17.10(1) *Appropriateness of program.* The request will be granted only if the receiving district is able to provide within that district the appropriate special education program for that student in accordance with 281—Chapter 41. This determination will be made by the receiving district in consultation with the resident district and the appropriate area education agency(ies) before approval of the application. In a situation where the appropriateness of the program is in question, the pupil will remain enrolled in the program of the resident district until a final determination is made, unless all parties otherwise agree, as provided in 281—Chapter 41. If the appropriateness of the special education program in the receiving district is at issue, the final determination of the appropriateness of a special education instructional program will be the responsibility of the child's individualized education program team, which must include a representative from the resident district that has the authority to commit district resources, and which decision is subject to the parent's procedural safeguards under 281—Chapter 41.

17.10(2) *Class size and caseload.* The provisions of subrule 17.6(2) apply to requests for open enrollment for a child with a disability. The following conditions apply:

a. The enrollment of the child in the receiving district's program would not cause the size of the class or caseload in that special education instructional program in the receiving district to exceed the maximum class size or caseload set forth in subrule 17.6(2).

b. If the child would be assigned to a general education class, there is sufficient classroom space, as established in subrule 17.6(2), for the general education class to which the child would be assigned.

17.10(3) Transportation. District transportation requirements, parent/guardian responsibilities and, where applicable, financial assistance for an open enrollment special education pupil is available as provided by rules 281—17.8(282) and 281—41.412(256B,34CFR300).

17.10(4) Finance. The district of residence, as determined on the date specified in Iowa Code section 257.6(1), will pay according to the timeline in Iowa Code section 282.20(3) to the receiving district the actual costs incurred by the receiving district in providing the appropriate special education program. These costs will be based on the current year expenditures with needed adjustments made in the final payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil rests with the resident district. The receiving district and the receiving area education agency director will provide, at least on an annual basis, evaluation reports and information to the resident district on each special education open enrollment pupil. The receiving district will provide notice to the resident district of all staffings scheduled for each open enrollment pupil. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, the resident district and the receiving district are to forward a copy of any approved open enrollment request to the director of special education of their respective area education agencies. Any moneys received by the area education agency of the resident district for an approved open enrollment special education pupil will be forwarded to the receiving district's area education agency. For children requiring special education, the receiving district will complete and provide to the district of residence the documentation necessary to seek Medicaid reimbursement for eligible services.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code section 282.18.

DIVISION II
INTRA-DISTRICT SCHOOL CHOICE UNDER IOWA LAW

281—17.11(279) General. Subject to Iowa Code section 279.82, a school district may permit parents or guardians of students to transfer to other attendance centers operated by the district. Such transfers are at the discretion of the district, subject to terms that the district adopts.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.12(279) Intra-district transfers due to bullying and harassment. If a school district determines that a student has been bullied or harassed, then the school will permit the student to transfer under the provisions of Iowa Code section 279.82. For purposes of this rule, “harassment” and “bullying” mean the same as defined in Iowa Code section 280.28. Subrule 17.6(2) and rule 281—17.10(282) apply to transfers under this rule. A student who is enrolled in another attendance center within the same school district pursuant to this rule is eligible to participate immediately in varsity interscholastic athletic contests and athletic competitions as a member of a team from the receiving attendance center, notwithstanding any local policy on intra-district transfers and athletic eligibility.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code section 279.82.

DIVISION III
UNSAFE SCHOOL CHOICE OPTION UNDER FEDERAL LAW

281—17.13(20USC7912) Definitions. For purposes of this chapter, the following definitions apply:

“*Department*” means the Iowa department of education.

“*Forcible felony*” means any crime defined in Iowa Code section 702.11. This includes felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree. Forcible felonies are not willful injury in violation of Iowa Code section 708.4(2); sexual abuse in the third degree committed between spouses; sexual abuse in violation of Iowa Code section 709.4(2) “c”(4); or sexual exploitation by a counselor or therapist in violation of Iowa Code section 709.15.

“*School*” means an attendance center within a school district.

“*School district*” means a public school district in Iowa.

“*School year*” means from July 1 until June 30 of the following year.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.14(20USC7912) Whole school option. Any student attending a persistently dangerous school as defined in this rule is eligible to transfer to a different school within the district. Transportation for students electing to transfer will be provided according to the district’s transportation policy. The transfers may be temporary or permanent, but will be in effect as long as the student’s original school is identified as persistently dangerous.

In making the determination of whether a transfer should be temporary or permanent, the district will consider the educational needs of the student, as well as other factors affecting the student’s ability to succeed in the student’s new school environment. The district is encouraged to explore other appropriate options such as an agreement with a contiguous school district to accept students if there is no safe school within the transferring district.

17.14(1) A persistently dangerous school is one that meets the following criteria for three consecutive school years:

a. The school has violence-related, long-term suspensions or expulsions for more than 1 percent of the student population. Long-term suspensions or expulsions are more than ten days in length and require the action of the local school board. For purposes of this subrule, a violence-related, long-term suspension or expulsion occurs as a result of physical injury or the threat of physical injury to a student while the student is in the school building or on the grounds of the attendance center during the hours of the regular school day or while the student is in attendance at school-sponsored activities that occur during the hours before or after the regular school day under one of the following:

- (1) A forcible felony as defined in rule 281—17.13(20USC7912);
- (2) Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;
- (3) Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;
- (4) Extortion under Iowa Code section 711.4;
- (5) Use of incendiary or explosive devices such as bombs under Iowa Code section 712.5;
- (6) Criminal gang activity under Iowa Code chapter 723A;
- (7) Carrying or using a weapon under Iowa Code sections 724.3 and 724.4.

b. The school has two or more students expelled for violating the federal gun-free school laws.

c. The school has 1 percent of the enrolled student population or five students, whichever is greater, who exercised the individual student option defined in rule 281—17.15(20USC7912).

17.14(2) For the school year starting July 1, 2003, and in the years thereafter, a school identified as meeting the criteria in paragraphs 17.14(1)“*a*” through “*c*” for one year will be given a warning by the department. The school will review the school’s safety plan and prevention activities.

17.14(3) For the school year starting July 1, 2004, and in the years thereafter, a school identified as meeting the criteria in paragraphs 17.14(1)“*a*” through “*c*” for two consecutive years will develop and implement a remedial plan. The plan will include schoolwide efforts to support positive student behavior and improve student discipline. The department will conduct a site visit to the school.

17.14(4) For the school year starting July 1, 2005, and in the years thereafter, a school identified as meeting the criteria in paragraphs 17.14(1)“*a*” through “*c*” for three consecutive years is eligible to be designated as a persistently dangerous school by the department. Prior to the department’s assigning the designation, the district may submit information to the department including:

- a.* The school’s safety plan;
- b.* Local efforts to address the school’s safety concerns;
- c.* The school safety data reported to the state consistent with requirements of the federal Safe and Drug-Free Schools and Communities Program;
- d.* More current data that the school may have available but has not yet reported; and
- e.* Any other information deemed relevant.

17.14(5) Within 30 days of receipt and review of the information, the department may determine that the school demonstrates improvement and may delay the designation for one year. By July 31, the department may, upon review of information that demonstrates improvement, delay the designation for one year. The department will determine whether the district has made sufficient progress to warrant further consideration as a persistently dangerous school.

17.14(6) Upon designation, the district will adopt a corrective action plan, to be approved by the department. The department will monitor the district's timely completion of the approved plan. The department will annually assess the school using the criteria listed in paragraphs 17.14(1) "a" through "c" by July 31 to determine whether the school will remain identified as a persistently dangerous school for the following school year.

17.14(7) At minimum, a district that has one or more schools identified as persistently dangerous will, within 14 days of the designation, notify parents of each student attending the school that the school has been identified by the department as persistently dangerous. The district must offer students the opportunity to transfer to a safe public school within the district; and for those students who accept the offer, the district will complete the transfer. A district may deny the transfer if space at the requested school is unavailable. A district will offer the parent other available options within the district, when available.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.15(20USC7912) Individual student option.

17.15(1) Any student who becomes a victim of a violent criminal offense will, to the extent feasible, be permitted to transfer to another school within the district. For purposes of this rule, a victim of a violent criminal offense is a student who is physically injured or threatened with physical injury as a result of the commission of one or more of the following crimes against the student while the student is in the school building or on the grounds of the attendance center:

- a. A forcible felony as defined in rule 281—17.13(20USC7912);
- b. Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;
- c. Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;
- d. Extortion under Iowa Code section 711.4.

17.15(2) Within ten calendar days following the date of the request, a local school district will offer an opportunity to transfer to the parent/guardian of a student who meets the definition of a victim of a violent crime.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

281—17.16(20USC7912) District reporting. For purposes of federal compliance, districts will report data and requested information related to this division in a manner prescribed by the department.

[ARC 7786C, IAB 4/17/24, effective 5/22/24]

This division is intended to implement 20 U.S.C. Section 7912.

[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]

[Filed 2/2/90, Notices 7/26/89, 8/9/89—published 2/21/90, effective 3/28/90]

[Filed emergency 5/25/90—published 6/13/90, effective 5/25/90]

[Filed 9/28/90, Notice 6/13/90—published 10/17/90, effective 11/21/90]

[Filed 11/22/91, Notice 10/2/91—published 12/11/91, effective 1/15/92]

[Filed 8/26/92, Notice 6/24/92—published 9/16/92, effective 10/21/92]

[Filed 11/19/93, Notice 9/29/93—published 12/8/93, effective 1/12/94]

[Filed 11/17/94, Notice 9/28/94—published 12/7/94, effective 1/11/95]

[Filed 11/21/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]

[Filed 9/13/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]

[Filed 3/20/98, Notice 2/11/98—published 4/8/98, effective 5/13/98]

[Filed 2/11/00, Notice 12/15/99—published 3/8/00, effective 4/12/00]

[Filed emergency 8/4/00—published 8/23/00, effective 8/7/00]

[Filed 4/19/02, Notice 2/6/02—published 5/15/02, effective 6/19/02]
[Filed 8/2/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]
[Filed emergency 11/21/02—published 12/11/02, effective 11/21/02]
[Filed 1/17/03, Notice 12/11/02—published 2/5/03, effective 3/12/03]
[Filed 6/17/04, Notice 5/12/04—published 7/7/04, effective 8/11/04]
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]
[Filed 7/27/07, Notice 5/9/07—published 8/15/07, effective 9/19/07]
[Filed 2/8/08, Notice 12/19/07—published 2/27/08, effective 4/2/08]
[Filed 11/20/08, Notice 8/27/08—published 12/17/08, effective 1/21/09]
[Filed ARC 9261B (Notice ARC 9143B, IAB 10/6/10), IAB 12/15/10, effective 1/19/11]
[Filed ARC 0521C (Notice ARC 0384C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 2746C (Notice ARC 2609C, IAB 7/6/16), IAB 10/12/16, effective 11/16/16]
[Filed ARC 3181C (Notice ARC 3031C, IAB 4/26/17), IAB 7/5/17, effective 8/9/17]
[Filed ARC 4296C (Notice ARC 4159C, IAB 12/5/18), IAB 2/13/19, effective 3/20/19]
[Filed ARC 5651C (Notice ARC 5463C, IAB 2/24/21), IAB 6/2/21, effective 7/7/21]
[Filed ARC 5869C (Notice ARC 5745C, IAB 6/30/21), IAB 8/25/21, effective 9/29/21]
[Filed ARC 6332C (Notice ARC 6184C, IAB 2/9/22), IAB 6/1/22, effective 7/6/22]
[Filed Emergency ARC 6483C, IAB 8/24/22, effective 8/5/22]
[Filed ARC 6726C (Notice ARC 6482C, IAB 8/24/22), IAB 12/14/22, effective 1/18/23]
[Filed ARC 7786C (Notice ARC 7602C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

TITLE III
COMMUNITY COLLEGESCHAPTER 21
COMMUNITY COLLEGES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 5]
[Former Ch 21 Rescinded, IAB 9/7/88]

DIVISION I
APPROVAL STANDARDS

281—21.1(260C) Definitions. For purposes of this chapter, the indicated terms are defined as follows:

“Applied liberal arts and sciences course” means a course that is classified as arts and sciences in Iowa’s common course numbering system and that primarily consists of hands-on or occupational skill development, including but not limited to accounting, ceramics, criminal investigation, dance, drama, music, photography, and physical education.

“Department” means the Iowa department of education.

“Director” means the director of the department.

“Field of instruction” means the discipline or occupational area within which an instructor teaches, which aligns with the content of the course being taught as indicated by the course prefix, title, or description.

“Full-time instructor” means an instructor who is considered to be full-time if the community college board of directors designates the instructor as full-time. Determination of full-time status is based on local board-approved contracts.

“Higher Learning Commission” means the regional accrediting authority recognized by the United States Department of Education. Iowa Code sections 260C.47 and 260C.48 require that the state accreditation process be integrated with that of the Higher Learning Commission.

“Joint enrollment” means any community college credit course offered to students enrolled in a secondary school. Courses offered for joint enrollment include courses delivered through contractual agreements between school districts and community colleges, courses delivered through the postsecondary enrollment options program, and college credit courses taken independently by tuition-paying secondary school students.

“Qualifying graduate field or major” means a qualifying graduate field or major that represents an academic discipline in which an instructor must have earned credit in order to teach courses in specified fields of instruction.

“Relevant tested experience” means the breadth, depth, and currency of work experience outside of the classroom in real-world situations relevant to the field of instruction.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.2(260C) Administration.

21.2(1) Policy manual. A community college board of directors will develop and maintain a policy manual that adequately describes the official policies of the institution.

21.2(2) Administrative staff. A community college will develop an administrative staff appropriate to the size and the purpose of the institution and one that permits the institution to function effectively and efficiently. This administrative staff will provide effective leadership for the major divisions of the institution including administrative services, adult and continuing education, career and technical education, college parallel education, and student services.

21.2(3) Chief executive officer. A community college will have a chief executive officer who is also the executive officer of the board of directors. The executive officer is responsible for the operation of the community college with respect to its educational program, its faculty and student services programs, and the use of its facilities. The executive officer may delegate to the staff all necessary administrative and supervisory responsibilities to ensure an efficient operation of the institution.

21.2(4) *Financial records and reports.* The community college will maintain accurate financial records and make reports in the form and pursuant to the timeline prescribed by the department and other state agencies.

21.2(5) *Enrollment.* A community college will meet minimum enrollment requirements if it offers instruction as authorized in Iowa Code chapter 260C and if, to the satisfaction of the state board of education, it is able to provide classes of reasonable economic size as needed by students, meets the needs of the students, and shows by its past and present enrollment and placement record that it meets individual and employment needs.

21.2(6) *Catalog.* The catalog is the official publication of the community college. It will include accurate information on institutional policies, admissions requirements, procedures and fees, refund policies, residency requirements, program enrollment and degree requirements, due process procedures, affirmative action, and other information as recommended by the department. Students' rights and responsibilities may be included in the catalog or in a separate document.

21.2(7) *Admissions and program/course enrollment requirements.* The community college will maintain an open-door admission policy for students of postsecondary age. This admission policy will recognize that students should demonstrate a reasonable prospect for success in the program in which they are admitted. Applicants who cannot demonstrate a reasonable prospect for success in the program for which they apply should be assisted to enroll in courses where deficiencies may be remediated or into programs appropriate to the individual's preparation and objectives. The community college may set reasonable requirements for student enrollment in specified programs and courses. Admissions and program enrollment requirements established by each community college will be published in the community college catalog.

21.2(8) *Academic year.* The academic year of the community college will consist of semester, trimester, or quarter terms, and will be a period of time beginning with the first day of the fall term and continuing through the day preceding the start of the next fall term as indicated in the official college calendar. A community college may offer instruction in units of length (i.e., days and weeks) consistent with the identified scope and depth of the instructional content.

21.2(9) *Award requirements.* The director will approve all new credit certificate, diploma, and degree award programs in accordance with Iowa Code section 260C.14. Awards from a community college will be certified by the issuance of appropriate recognition, pursuant to award approval requirement guidelines issued by the department, indicating the type of program the student has completed. The minimum number and maximum number of credit hours required for each award type contained within this subrule may be waived pursuant to paragraph 21.2(13) "i." Each award will meet the expectations of statewide articulation agreements between Iowa community colleges and public universities.

a. Associate of arts (AA). The degree is awarded upon completion of a college parallel (transfer) course of study that provides a strong general education component to satisfy the lower division general education liberal arts and sciences requirements for a baccalaureate degree. An associate of arts degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.

b. Associate of science (AS). The degree is awarded upon completion of a course of study that requires a strong background in mathematics or science. The degree is intended to prepare students to transfer and initiate upper division work in baccalaureate programs. An associate of science degree awarded upon completion of an arts and sciences course of study consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.

c. Associate of general studies (AGS). The degree is awarded upon completion of an individualized course of study that is primarily designed for the acquisition of a broad educational background rather than the pursuit of a specific college major or professional/technical program. The AGS is intended as a flexible course of study and may include specific curriculum in lower division transfer, occupational education, or professional-technical education. It will not include a marketed course of study. An associate of general studies degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.

d. Associate of applied science (AAS). The degree is awarded upon completion of a state-approved program of study that is intended to prepare students for entry-level career and technical occupations. An associate of applied science degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied science degree program consists of a minimum of 15 semester (22.5 quarter) credit hours of general education and include at least one course from each of the following areas: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be documented through an integrated, embedded, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department. The technical core of the associate of applied science degree will constitute a minimum of 50 percent of the course credits.

e. Associate of applied arts (AAA). The degree is awarded upon completion of a state-approved program of study that is primarily intended for career training in providing students with professional skills for employment in a specific field of work, such as arts, humanities, or graphic design. An associate of applied arts degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied arts degree program will consist of a minimum of 15 semester (22.5 quarter) credit hours of general education and include at least one course from each of the following: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be documented through an integrated, embedded, and interdisciplinary model adopted by the chief academic officers of the 15 community colleges in consultation with the department. The technical core of the associate of applied arts degree will constitute a minimum of 50 percent of the course credits.

f. Associate of professional studies (APS). The degree is awarded upon completion of a state-approved program of study that is intended to prepare students for transfer and upper division coursework in aligned baccalaureate programs or immediate entry into the workforce.

(1) To be eligible to offer this award type, a college shall demonstrate that other award types cannot meet needs and the associate of professional studies award is appropriate.

(2) An associate of professional studies degree will consist of a minimum of 62 semester (93 quarter) credit hours and a maximum of 68 semester (102 quarter) credit hours. The general education component of the associate of professional studies degree will consist of a minimum of 30 semester (45 quarter) credit hours of general education including 3 semester (4.5 quarter) credit hours of each of the following: speech, mathematics, humanities, social and behavioral sciences, science; 6 semester (9 quarter) credit hours of writing; and 9 semester (13.5 quarter) credit hours distributed among mathematics, social and behavioral sciences, humanities, and science. The technical core of the associate of professional studies degree will consist of a minimum of 16 semester (24 quarter) credit hours of career and technical coursework accepted by a receiving baccalaureate degree-granting institution with an aligned program as applying toward a specific major or program of study. The technical core of the degree will also consist of a minimum of 16 additional semester (24 quarter) credit hours of career and technical coursework accepted by the receiving institution as electives.

(3) An associate of professional studies degree program of study will have a minimum of three program-to-program articulation agreements with baccalaureate degree-granting institutions, at least one of which must be a public institution. A program will have a minimum of one articulation agreement effective prior to program implementation, provided all three agreements are effective within the program's first year of student enrollment. The agreements will provide for the application of no fewer than 60 semester (90 quarter) credit hours toward the graduation requirements of each articulated baccalaureate degree program.

g. Diploma. The diploma is awarded upon completion of a state-approved program of study that is a coherent sequence of courses consisting of a minimum of 15 semester (22.5 quarter) credit hours and a maximum of 48 semester (72 quarter) credit hours including at least 3 semester (4.5 quarter) credit hours of general education. The general education component will be from any of the following areas: communications, social science or humanities, and mathematics or science. The technical core of the

diploma will constitute a minimum of 70 percent of the course credits. A diploma may be a component of and apply toward subsequent completion of an associate of applied science or associate of applied arts degree.

h. Certificate. The certificate is awarded upon completion of a state-approved program of study that is designed for entry-level employment and consists of a maximum of 48 semester (72 quarter) credit hours. A certificate may be a component of and apply toward subsequent completion of a diploma or associate of applied science or associate of applied arts degree and may be developed in rapid response to the needs of business and industry. A certificate may consist of only career and technical courses and no general education course requirements.

21.2(10) Academic records. The community college shall maintain in perpetuity for each student the complete academic record including every course attempted and grade received. An official transcript must be created at the time of course enrollment. The credit hour(s) and grade will be recorded on the student's official transcripts upon completion of a community college course. These records shall be kept in disaster-resistant storage, unless other equivalent safeguards are used, such as maintaining duplicate files (electronic or otherwise) in separate facilities. The method of storage will be consistent with current technology to ensure the ability to retrieve records. The community college will implement a security plan that ensures the confidentiality of student records.

21.2(11) Residency status and tuition. A student who has been admitted to an Iowa community college will be classified as a resident or as a nonresident for admission, tuition, and fee purposes. A student classified as a resident will pay resident tuition costs. A student classified as a nonresident will pay nonresident tuition costs. Tuition rates are established by a community college's board of trustees pursuant to Iowa Code section 260C.14(2).

a. Tuition rates. Tuition rates adopted by a community college's board of trustees will be consistent with the following requirements:

(1) Resident tuition.

1. Tuition for residents will not exceed the lowest tuition rate per semester, or the equivalent, for a full-time student charged by an institution of higher education under the state board of regents.

2. For students of high school age enrolled in a course through a contractual agreement with a school district, the limit on resident tuition does not apply, and the amount of tuition will be determined by the community college's board of trustees with the consent of the school board.

3. Resident tuition rates do not require department approval.

(2) Nonresident tuition. Tuition for nonresidents will be not less than the marginal cost of instruction of a student attending the college. The establishment of nonresident tuition rates does not require department approval, with the exception of rates established pursuant to numbered paragraph 21.2(11) "a"(2) "2" and "3" and subparagraph 21.2(11) "a"(3).

1. International student tuition rates. A separate nonresident rate for international students is permissible, provided the rate is reasonable and reflects the cost of appropriate services.

2. Reciprocal agreements. A lower tuition rate for nonresidents is permitted under a reciprocal tuition agreement between a community college and an educational institution in another state, if the rate established in the agreement is approved by the department.

3. Other nonresident rates. Other nonresident tuition rates may be established for specific purposes provided the tuition rate is greater than the resident tuition rate, the tuition rate is not less than the marginal cost of instruction, and the arrangement is approved by the department.

(3) Consortia. A separate tuition rate for residents and nonresidents is permitted for courses delivered through a consortia agreement for online, distance education, or other coursework between Iowa community colleges, if the rate established in the agreement is approved by the department. Tuition will not be less than the lowest resident rate or higher than the highest nonresident rate of institutions within the consortium.

(4) Noncredit course tuition. Tuition for noncredit continuing education courses will be determined based on course costs and market demand. Tuition rates for courses that are not credit-bearing do not require department approval.

(5) Department approval. For tuition rates requiring department approval, the department will approve rates that comply with the requirements set forth in this chapter. Before a rate is adopted by a community college's board of trustees and charged to students, the community college will request and receive approval for a tuition rate.

(6) Reporting. A community college will annually report all tuition rates and mandatory fees in a manner prescribed by the department.

(7) Notification. A community college will inform all students about residency status determinations, the appeal process, and tuition policies. Information will be included in appropriate publications, such as the college's catalog, registration materials, website, and student handbook.

b. Determination of residency status. In determining a community college resident or nonresident classification, the primary determinant is the reason the student is in the state of Iowa. The second determinant is the length of time a student has resided in Iowa. If a student is in the state primarily for educational purposes, that student is considered a nonresident. The burden of establishing the reason a student is in Iowa for other than educational purposes rests with the student.

(1) Procedure. The registrar or officially designated community college office will require written documents, affidavits, or other related evidence deemed necessary to determine why a student is in Iowa. A student will be required to file at least two documents from different sources to determine residency status. Examples of acceptable documentation include: written and notarized documentation from an employer that the student is employed in Iowa or a signed and notarized statement from the student describing employment and sources of support; an Iowa state income tax return; an Iowa driver's license; an Iowa vehicle registration card; an Iowa voter registration card; or proof of Iowa Homestead credit on property taxes. In all events, to be determined a resident of Iowa, the student must document residing in the state of Iowa for at least 90 days prior to the beginning of the term for which the student is enrolling.

1. If a student gives misleading or incorrect information for the purpose of evading payment of nonresident tuition, the student must pay the nonresident tuition for each term the student was not officially classified as a nonresident.

2. The procedures described in paragraph 21.2(11) "b" will be administered by the registrar or staff designated by the community college.

(2) Residency of minor students. The domicile of a minor follows that of the parent with whom the minor resides, except where emancipation of said minor can be proven. The word "parent" includes legal guardian or others in cases where the lawful custody of a minor has been awarded to persons other than the minor's actual parents. A minor living with a resident of Iowa who is legally responsible for the minor shall be granted resident status if the minor has lived with the Iowa resident for at least 90 days immediately prior to enrollment. The residency status of an emancipated minor is based upon the same qualifications established for a student having attained majority.

(3) Residency of students who are not citizens of the United States. The residency status of students who are not citizens of the United States will be determined consistent with the following procedures:

1. A student who is a refugee or who is granted asylum by an appropriate agency of the United States must provide proof of certification of refugee or asylum grantee status. A student may be accorded resident status for admission and tuition purposes when the student comes directly, or within a reasonable time, to the state of Iowa from a refugee facility or port of debarkation and has not established domicile in another state.

2. A student who has immigrant status, and the student's spouse or dependents, may establish Iowa residency in the same manner as a United States citizen.

3. A student who has nonimmigrant status and who holds a nonstudent visa, and the student's spouse or dependents, may establish residency in the same manner as a United States citizen. An alien who has nonimmigrant status and whose primary purpose for being in Iowa is educational is classified as nonresident.

4. A student who is a resident of an Iowa sister state may be classified as a resident or nonresident, in accordance with rules adopted by the college's board of directors.

(4) Residency of federal personnel and dependents. A student, or the student's spouse or dependent child, who has moved into the state of Iowa as the result of military or civil orders from the federal government, and the minor children of such student, is immediately an Iowa resident.

(5) Residency of veterans and family members and individuals covered under Section 702 of the Veterans Access, Choice and Accountability Act of 2014. A veteran of a uniformed service, a member of the National Guard, or the veteran's or member's spouse or dependent child will be classified as an Iowa resident student and be eligible for resident tuition and fee amounts, if the veteran or national guard member meets the requirements of numbered paragraph 21.2(11) "b"(5) "1," "2," or "3."

1. The veteran has separated from a uniformed service with an honorable or general discharge, is eligible for benefits, or has exhausted benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal authorizing veteran educational benefits program.

2. The individual is an active duty military person or activated or temporarily mobilized National Guard member.

3. The individual is a covered person under Section 702 of the Veterans Access, Choice and Accountability Act of 2014 or subsequent legislation.

(6) Reclassification of residency status. It is the responsibility of a student to request a reclassification of residency status. If a student is reclassified as a resident for tuition purposes, such classification is effective beginning with the next term for which the student enrolls. In no case will reclassification to residency status be made retroactive for tuition and fee purposes, even though the student could have previously qualified for residency status had the student applied.

(7) Appeal. The decision on the residency status of a student for admission, tuition, and fee purposes may be appealed to a review committee established by the community college. The findings of the review committee may be appealed to the community college's board of trustees, whose decision is a final administrative decision.

21.2(12) Credit hours. Credit hours will be determined consistent with the following procedures.

a. Specifically stated criteria are minimal requirements only, which institutions may exceed at their discretion.

b. Conventional instruction is subdivided into four instructional methods as herein defined.

(1) Classroom work — lecture and formalized classroom instruction under the supervision of an instructor.

(2) Laboratory work — experimentation and practice by students under the supervision of an instructor.

(3) Clinical practice — applied learning experience in a health agency or office under the supervision of an instructor.

(4) Work-based learning — employment-related experience planned and coordinated by an institutional representative and the employer, with control and supervision of the student on the job being the responsibility of the employer. Planned and supervised connections of classroom, laboratory and industry that prepare students for current and future careers.

c. No registration or orientation hours may be included when determining credit hours.

d. Institutions will take into account the soundness of the learning environment being created by the scheduling sequence and length of classroom, laboratory, clinical, and work-based learning sessions. However, the final decision on these matters is left to the institutional administration so long as minimal standards are met.

e. Only minutes for students officially registered for courses or programs, including audit registration, may be included when determining credit hours.

f. Each community college must establish a policy that defines its methods of equating alternative instruction to credit hours and the process for evaluating the effectiveness of the alternative instruction to meet or exceed the expected student outcomes as if the course were taught utilizing conventional methods in paragraph 21.2(12) "b." Colleges will be held accountable for evaluating and maintaining high-quality programs, and their evaluations may be subject to department review. Students will be expected to meet all approved course requirements and will be expected to demonstrate the acquisition of knowledge and competencies/outcomes at the same level as those obtained in traditional classroom

settings, in the time frames set by the institution. Alternative courses or programs of study must be approved by the college's review processes including faculty review and input. Courses will be listed in the college catalog. Instructional formats for which alternative methods of determining credit hours are applicable include the following:

(1) Accelerated courses (study, programs). Courses or programs of study that allow students to complete courses or programs at a faster pace than if offered by conventional methods. Courses and programs will be tailored to involve more student participation and self-directed study. Instructors may teach in traditional classroom settings or by alternative methods specified in this subrule.

(2) Distance education. Courses or programs of study taught over the Internet, Iowa Communications Network (ICN), or other electronic means that allow students to receive instruction in the classroom or other sites, over personal computers, television, or other electronic means. Courses may or may not be interactive with direct communication between the teacher and students. Credit hours will be awarded in accordance with the credit hours that would have been assigned if the course or program were taught by conventional methods.

1. Correspondence courses. Courses offered outside the classroom setting in which the instruction is delivered indirectly to the student. Instruction is provided through another medium, such as written material, computer, television, or electronic means. Course materials are sent to a student who follows a detailed syllabus to complete assignments. Students correspond with and transmit assignments to the instructor by telephone, computer, mail, or electronic means. A third party may administer tests.

2. Television courses. Courses or programs delivered primarily via broadcast television, such as Iowa Public Television, digital video disc, or other media allowing students to receive instruction in a classroom or equipped remote location.

3. Video conference courses. Courses or programs delivered via a closed synchronous audio-video conferencing system, such as the Iowa Communications Network or similar system that allows students to receive instruction in a classroom or any equipped remote location via an audio-video feed to a television, computer, or other electronic device.

4. Online courses. Courses or programs delivered via the Internet. Courses may be taken using computers in a classroom setting or using personal computers or other electronic devices from the student's home or other location using an online learning management system or mixed-media methods. Students may be linked at times directly with the instructor or with other students electronically. Interaction may be direct (synchronous) or indirect (asynchronous) allowing students to participate during their own time frames.

5. In-class hybrid courses. Courses or programs that combine traditional classroom and computer-based instruction. In-class sessions are offered with online instructional activities to promote independent learning and reduce seat time.

(3) Self-paced instruction. Courses or programs that permit a student to enter at variable times or progress at the student's own rate of speed. Start and end dates may or may not correspond to the official college calendar. Contact or credit hours for self-paced programs or courses will be computed by assigning to each registration the total number of credit or contact hours the student would have received if the student enrolled in a conventional program or course with stipulated beginning and ending dates.

(4) Arranged study. Instruction offered to students at times other than stated or scheduled class times to accommodate specific scheduling or program needs of students. Credit hours will be awarded in accordance with the credit hours that would have been assigned if the course or program were taught by conventional methods.

(5) Multiformat nontraditional instruction. Instruction utilizing a variety of nontraditional methods that may incorporate self-paced learning, text, video, computer instructional delivery, accelerated training, independent study, Internet delivery, or other methods that do not follow standard classroom work guidelines. Credit hours will be awarded in accordance with the credit hours that would have been assigned if the course or program were taught by conventional methods.

(6) Competency-based instruction. Programs delivered using an outcomes-based approach, where the curriculum is structured around specified competencies and satisfactory academic progress is expressed as the attainment or mastery of the identified competencies.

g. Individualized learning experiences for which an equivalent course is not offered will have the program length computed from records of attendance using such procedures as a time clock or sign-in records. Individualized learning experiences means independent study courses in which an equivalent course is not offered by the college or listed in the college catalog. Independent study permits in-depth or focused learning on special topics of particular interest to the student.

h. Each course must have a minimum length of one credit hour. A fractional unit of credit may be awarded, provided the course exceeds the minimum length of one credit hour.

i. Each credit hour shall consist of a minimum number of contact hours as defined in paragraphs 21.2(12) "h" to "m." One contact hour equals 50 minutes.

j. Classroom work.

(1) The minimum requirement for one semester hour of credit is 800 minutes (16 contact hours) of scheduled instruction.

(2) The minimum requirement for one quarter hour of credit is 533 minutes (10.7 contact hours) of scheduled instruction.

k. Laboratory work.

(1) The minimum requirement for one semester hour of credit is 1,600 minutes (32 contact hours) of scheduled laboratory work.

(2) The minimum requirement for one quarter hour of credit is 1,066 minutes (21.3 contact hours) of scheduled laboratory work.

l. Clinical practice.

(1) The minimum requirement for one semester hour of credit is 2,400 minutes (48 contact hours) of scheduled clinical practice.

(2) The minimum requirement for one quarter hour of credit is 1,599 minutes (32 contact hours) of scheduled clinical practice.

m. Work-based learning.

(1) The minimum requirement for one semester hour of credit is 3,200 minutes (64 contact hours) of scheduled work-based learning.

(2) The minimum requirement for one quarter hour of credit is 2,132 minutes (42.6 contact hours) of scheduled work-based learning.

21.2(13) Career and technical program length.

a. Program length for the associate of applied science (AAS) degree in career and technical education, for the associate of applied arts (AAA) degree, and for the associate of professional studies (APS) degree will consist of an academic program not to exceed two academic years. All required course offerings are to be available within two academic years. All required offerings in AAS and AAA degree programs will not exceed a maximum of 86 semester (129 quarter) credit hours unless the department has granted a waiver pursuant to paragraph 21.2(13) "i." All required offerings in APS degree programs will not exceed a maximum of 68 credit hours. Programs will not exceed an average of 19 credit hours per regular term.

b. All credit-bearing courses required for program admittance or graduation, or both, will be included in the program length credit hour maximum, with the exception of developmental course credit hours. Prerequisites that provide an option to students for either credit or noncredit shall be counted toward the program parameters. Prerequisite options that are only offered for noncredit will not be counted toward program length parameters. A high school course prerequisite is permissible and will not count toward program length parameters, provided the prerequisite is reasonable. A high school course prerequisite is reasonable if a community college demonstrates that students entering the program predominantly meet the requirement without prior college coursework.

c. Associate of applied science (AAS) and associate of applied arts (AAA) programs that receive accreditation from nationally recognized accrediting bodies may appeal maximum credit hour length requirements to the department for consideration of a waiver. All AAS and AAA degree programs over the 86 semester (129 quarter) credit hour maximum must have approved program-length waivers pursuant to paragraph 21.2(13) "i."

d. Associate of professional studies programs are not eligible for a program-length waiver pursuant to paragraph 21.2(13) “*i.*”

e. All credit certificate and diploma programs as defined in subrule 21.2(9) will not exceed 48 semester (72 quarter) credit hours.

f. Each course offered in the area of career and technical education will be taught in the shortest practical period of time at a standard consistent with the quality and quantity of work needed to prepare the student for successful employment in the occupation for which instruction is being offered.

g. A full-time student in career and technical education is defined as a student enrolling in 12 or more semester credit hours or the equivalent in career and technical education.

h. Curricula in full-time career and technical education programs will ordinarily be offered on the basis of student workload of 20 to 30 contact hours per week.

i. Waiver process. A college may petition the department to suspend in whole or in part a program-length requirement contained in paragraphs 21.2(13) “*a*” to “*e*” as applied to a specific program on the basis of the particular circumstances of that program.

(1) Waivers are issued at the director’s sole discretion. Waivers will be narrowly tailored and granted for a period no longer than two academic years, after which reapplication is necessary. A waiver may be granted on a long-term basis, not to exceed ten years, if issuing the waiver for a shorter period is not practical.

(2) All petitions for waiver must be submitted in writing to the department and include the following information: specific waiver request including scope and duration, the relevant facts that the petitioner believes would justify a waiver, a detailed statement of the impact on student achievement, any information known regarding the department’s treatment of similar cases, and any additional information deemed relevant by the petitioner. The department will acknowledge a petition upon receipt.

(3) The department will ensure that, within 30 calendar days, notice of pendency of the petition and a concise summary of its contents have been provided to a committee consisting of the chief academic officers of each community college. In addition, the department may give notice to other persons.

(4) A committee consisting of the chief academic officers of a majority of community colleges will review the waiver request and provide a recommendation to the department regarding whether approval should be granted. Within 90 calendar days of receiving the recommendation, the department will review the petition and issue a ruling. Failure of the department to grant or deny a petition within the required time period is deemed a denial of that petition. If a waiver is issued, the department will provide a description of the precise scope and operative period to all interested parties.

21.2(14) Faculty organization. The faculty shall be organized in such a way as to promote communication among administration, faculty and students and to encourage faculty participation in the development of the curriculum, instructional procedures, general policies, and such other matters as are appropriate.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.3(260C) Associate of arts and associate of science transfer major programs.

21.3(1) General program. Each community college shall offer a general college parallel program of study leading to an associate of arts award or an associate of science award, pursuant to subrules 21.2(9) and 21.4(2). These programs shall offer courses equivalent to the first two years of a baccalaureate program and will not be discipline-specific.

21.3(2) Transfer majors. A community college may establish discipline-specific transfer major programs to improve student recruitment, advising, and success and enhance transferability of associate-level courses into aligned baccalaureate degree programs. The transfer major program will consist of discipline-relevant credits from an approved discipline framework that satisfies the requirements of paragraph 21.3(2) “*b.*” A community college will ensure all students are appropriately advised regarding the availability, structure, purpose, and other pertinent information related to the transfer major program.

a. Degree option. A transfer major will be embedded within an associate of arts or associate of science degree that meets the requirements of this chapter and any applicable statewide transfer agreement between the Iowa community colleges and public universities. Credits within the transfer major may be utilized to fulfill the general education requirements of an associate of arts or associate of science degree, as appropriate.

b. Discipline framework. Each approved transfer major program will adhere to the appropriate adopted discipline framework to ensure transferability with the aligned baccalaureate program of study at one or more public universities in Iowa.

(1) A discipline framework consists of a minimum of 18 discipline-relevant semester credits (27 quarter credits) that align with a framework of elements based on accepted practices of an aligned baccalaureate degree program of study at a public university in Iowa.

(2) The courses within the discipline framework will articulate with a regionally accredited public university in Iowa so that the course credits are recognized by the university as fulfilling equivalent course requirements in at least one aligned baccalaureate degree program of study.

(3) If the provisions of subparagraph 21.3(2)“b”(2) cannot be achieved with at least one regionally accredited public university in Iowa, a request may be submitted to the department for articulation with a regionally accredited public institution in a contiguous state or a group of no less than three regionally accredited private postsecondary institutions that confer baccalaureate degrees, are based in Iowa, and are approved under Iowa Code chapter 256, subchapter VII, part 4, to operate in the state of Iowa.

(4) The discipline framework will be developed and adopted by a statewide committee convened by the department.

c. Use of term. Consistent with department guidance, each community college will exclusively use the term “transfer major” to record the completion of an approved transfer major program on the student’s official transcript and other academic records, publish in the college catalog, and market the transfer major program to current and potential students and the general public. A community college shall not transcript, catalog, or market an associate of arts or associate of science program using other terms that contain or are synonymous with the term “major” or “transfer” or that imply a specialization within a subject area.

21.3(3) Approval. Pursuant to Iowa Code section 260C.14, each transfer major program will be submitted to the department for approval utilizing the state system for program management. Approval will be obtained prior to the enrollment of students in the transfer major program. The approval process does not include components specific to career and technical education program approval, including advisory committees and labor market analysis.

21.3(4) Reporting. Each community college will comply with data reporting requirements established by the department. The department shall produce and make available a report detailing enrollment and outcomes of participants in transfer major programs.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.4(260C) Curriculum and evaluation.

21.4(1) General education. General education is intended to provide breadth of learning to the community college experience. General education imparts common knowledge, promotes intellectual inquiry, and stimulates the examination of different perspectives, thus enabling people to function effectively in a complex and changing world. General education tends to emphasize oral and written communication, critical analysis of information, knowledge and appreciation of diverse cultures, ways of knowing and human expression, knowledge of mathematical processes and natural sciences investigations, and ethics. General education courses are not intended to be developmental in nature. Each community college is responsible for clarifying, articulating, publicizing, and assessing its general education program.

21.4(2) College parallel or transfer.

a. This program shall offer courses that are the equivalent of the first two years of a baccalaureate program and may also include such courses as may be necessary to develop skills that are prerequisite to other courses and objectives, specialized courses required to provide career options within the college

parallel or transfer program, and approved transfer major programs meeting the requirements of rule 281—21.3(260C). College parallel or transfer programs are associate of arts and associate of science degree programs. General education courses in college parallel or transfer programs are required to be college transfer courses. Data will be collected and analyzed to determine how well students have succeeded and which adjustments in the curriculum, if any, need to be made.

b. Courses of a developmental or remedial nature or prefreshman level will not bear college transfer credit and will be clearly identified in the college catalog. Developmental courses on the transcript will be identifiable through the adoption of the community college common course numbering system.

21.4(3) Career and technical education. Instruction will be offered in career and technical education programs in no fewer than five different occupational fields as defined by the department. College parallel or transfer courses may be offered as needed in career and technical education programs. Career and technical education programs must meet program approval requirements set by the state board of education. The director's approval of new career and technical education programs is necessary. Instruction will be offered in career and technical education programs, ensuring that they are competency-based, contain all minimum competencies required by the department, articulate with local school districts' career and technical education programs, and comply with any applicable requirements in Iowa Code chapter 258. The occupational fields in which instruction is offered will be determined by merged area and geographical area needs as identified by surveys in these areas. Occupational advisory committees may be used to assist in developing and maintaining instructional content, including leadership development.

21.4(4) Developmental education. Students who enter community colleges underprepared for postsecondary coursework are provided opportunities to improve their cognitive and noncognitive skills via developmental education academic and student support services. In an effort to enhance these opportunities, while respecting the local authority of Iowa's community colleges, each college will adopt proven developmental education strategies to identify and address the needs of students, shorten the time to completion, prepare students for academic success, and reduce the financial burden for students underprepared for postsecondary coursework. Such proven strategies include multiple measures of placement; accelerated and integrated strategies, such as co-requisite models; and support services that address students' cognitive and noncognitive needs. These reform efforts require collaboration among community colleges, school corporations, and education stakeholders to systemically expand proven strategies to prepare students for postsecondary success.

21.4(5) Adult and continuing education. Adult education shall be offered and may include adult basic education, adult continuing and general education, college parallel or transfer, high school completion, supplementary and preparatory career education programs, and other programs and experiences as may be required to meet the needs of people in the merged area.

21.4(6) Continuing education. The community colleges shall provide a program of community services designed to meet the needs of persons residing in the merged area. The purpose of the continuing education program is to foster agricultural, business, cultural, industrial, recreational and social development in the area.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.5(260C) Nonreimbursable facilities. No facility intended primarily for events for which admission may be charged nor any facility specially designed for athletic or recreational activities, other than physical education, may be constructed with state-appropriated funds.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.6 to 21.19 Reserved.

The rules in this division are intended to implement Iowa Code chapter 260C and 2007 Iowa Acts, Senate File 601.

DIVISION II
INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

281—21.20(321J) Course.

21.20(1) A course provided in accordance with Division II of this chapter will be offered on a regular basis at each community college or by a substance abuse treatment program licensed under Iowa Code chapter 125. However, a community college is not required to offer the course if a substance abuse treatment program licensed under Iowa Code chapter 125 offers the course within the merged area served by the community college. A course provided in accordance with Division II of this chapter may be offered at a state correctional facility listed in Iowa Code section 904.102.

21.20(2) The department will maintain a listing of all providers of approved courses in the state and publish this listing on the department's website.

21.20(3) Individuals who reside outside the state of Iowa and who are required by the state of Iowa to take a course for drinking drivers will have the opportunity to take the course in another state, provided the out-of-state course is comparable to those courses approved to be offered in the state of Iowa.

21.20(4) Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17(2). Any person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

21.20(5) An instructional course, including allowable delivery formats, will be approved by the department in consultation with the community colleges, substance abuse treatment programs licensed under Iowa Code chapter 125, the Iowa department of health and human services, and the Iowa department of corrections. The course will consist of at least 12 hours of instructional time. In-person instruction will be delivered over a minimum of a two-day period in blocks not to exceed four hours with a minimum of a 30-minute break between blocks. Each student attending a course will be provided with the appropriate course materials necessary to complete the course, which will not be reused. The course will be taught by an instructor certified by the curriculum provider to teach the course. Each course of instruction will establish the following:

a. An understanding that alcohol-related problems could happen to anyone and that a person's drinking choices matter. The course illustrates common views of society that prevent people from taking drinking choices seriously. Research is presented to challenge common views with an understanding that alcohol problems are related to lifestyle choices.

b. An understanding that specific low-risk choices will help reduce the risk of experiencing alcohol-related problems at any point in life. The course presents research-based, low-risk guidelines.

c. Methods of providing support for making low-risk choices.

d. An accurate description of the progression of drinking to the development of alcoholism to help people weigh the risk involved with high-risk drinking and to see how high-risk choices may jeopardize their lives and the lives of others.

e. Opportunities to develop a specific plan of action to follow through with low-risk choices. A list of community resources is provided for ongoing support and treatment as needed.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.21(321J) Tuition fee established.

21.21(1) Each person enrolled in an instructional course for drinking drivers will pay to the community college or a substance abuse treatment program licensed under Iowa Code chapter 125 a tuition fee of \$140 for the approved 12-hour course, plus a reasonable course materials fee. The court may allow an offender to combine the required course with a program that incorporates jail time. Reasonable fees may be assessed for costs associated with lodging, meals, and security.

21.21(2) A person will not be denied enrollment in a course by reason of a person's indigency. For court-ordered placement, the court will determine a person's indigency. In all other instances, the community college, substance abuse treatment program licensed under Iowa Code chapter 125, or state correctional facility will determine indigence upon application.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.22(321J) Administrative fee established.

21.22(1) *Students enrolled in Iowa.* Each person enrolled in Iowa in an instructional course for drinking drivers under this chapter will be charged an administrative fee of \$15. This fee is in addition to tuition and will be collected by the provider of the instructional course in conjunction with the tuition fee established under rule 281—21.32(321J). The administrative fee will be forwarded to the department on a quarterly basis as prescribed by the department. If a student has been declared by the court as indigent, no administrative fee will be charged to that student.

21.22(2) *Students enrolled in another state.* Each person enrolled outside the state of Iowa in an instructional course for drinking drivers under this chapter will be charged an administrative fee of \$37.50. This fee is in addition to tuition and will be paid directly to the department of education by the student. Upon payment of the fee, the department shall review the educational component of the course taken by the student and shall inform the department of transportation whether the educational component is approved by the department.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.23(321J) Advisory committee. A drinking driver education advisory committee is established by the department to serve in an advisory capacity to the department in matters relevant to the instructional course for drinking drivers. Membership on this committee will include representatives from agencies currently offering the instructional course for drinking drivers and may include other stakeholders.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.24 to 21.30 Reserved.

The rules in this division are intended to implement Iowa Code section 321J.22.

DIVISION III
STATE COMMUNITY COLLEGE FUNDING PLAN

281—21.31(260C) General. Funds appropriated by the general assembly to the department for general financial aid to community colleges shall be allocated to each community college in the manner defined in this chapter.

21.31(1) Distribution formula. Moneys appropriated by the general assembly from the general fund to the department for community college purposes for general state financial aid for a budget year shall be allocated to each community college by the department according to the provisions of Iowa Code section 260C.18C.

21.31(2) Each community college will provide student and financial information in the manner and form as determined by the department and before the deadline announced by the department. If the community college fails to provide the student or financial information as required, the department will estimate the full-time equivalent enrollment (FTEE) of that college that will be used in the state general aid distribution formula.

21.31(3) Each community college is required to hire an auditing firm to complete and submit the schedule of credit-hour and contact-hour enrollment and a letter certifying that specified department of education procedures were followed. These schedules will be used in calculating the college's FTEE utilized in the community college state general aid distribution formula.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.32 to 21.40 Reserved.

The rules in this division are intended to implement Iowa Code section 260C.18C.

DIVISION IV
APPRENTICESHIP PROGRAM

281—21.41(260C) Definitions. For the purpose of Division IV, the following definitions apply:

“*Apprentice*” means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade or occupation under the standards of apprenticeship.

“*Apprenticeable occupation*” means a skilled trade that possesses all of the following characteristics:

1. It is customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training.
2. It is clearly identified and commonly recognized throughout an industry.
3. It involves manual, mechanical or technical skills and knowledge that require a minimum of 2,000 hours of on-the-job work experience.
4. It requires related instruction to supplement on-the-job training.

“*Apprenticeship agreement*” means a written agreement between an apprentice and the apprentice’s employer, or an apprenticeship committee acting as the agent for the employer(s). The agreement contains the terms and conditions of the employment and training of the apprentice.

“*Apprenticeship committee*” means those persons designated by the sponsor to act for it in the administration of the program. A committee may be “joint,” i.e., composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s), and is established to conduct, operate, or administer an apprenticeship program and enter into apprenticeship agreements with apprentices. A committee may be “unilateral” or “nonjoint” and shall mean a program sponsor in which a bona fide collective bargaining agent is not a participant.

“*Apprenticeship program*” means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as required under 29 CFR Parts 29 and 30, including the requirement for a written apprenticeship agreement.

“*Cancellation*” means the termination of the registration or approval status of a program at the request of the sponsor or termination of an apprenticeship agreement at the request of the apprentice.

“*Certification*” or “*certificate*” means documentary evidence that at least one of the following has been met:

1. The Office of Apprenticeship has approved a set of National Guidelines for Apprenticeship Standards developed by a national committee or organization, joint or unilateral, or policy or guideline used by local affiliates, as conforming to the standards of apprenticeship set forth in 29 CFR Section 29.5;
2. A registration agency has established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program;
3. A registration agency has registered an apprenticeship program as evidenced by a certificate of registration or other written indicia;
4. A registration agency has determined that an apprenticeship has successfully met the requirements to receive an interim credential; or
5. A registration agency has determined that an individual has successfully completed an apprenticeship.

“*Competency*” means the attainment of manual or technical skill and knowledge as specified by an occupational standard.

“*Employer*” means any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice.

“*Office of Apprenticeship*” mean the office designated by the Employment and Training Administration to administer the National Apprenticeship System or its successor organization.

“*Registration agency*” shall mean the Office of Apprenticeship.

“*Registration of an apprenticeship agreement*” means the acceptance and recording of an apprenticeship agreement by the Office of Apprenticeship as evidence of the apprentice’s participation in a particular registered apprenticeship program.

“*Related instruction*” or “*related technical instruction*” means an organized and systematic form of instruction designed to provide the apprentice with the core knowledge of the theoretical and technical subjects related to the apprentice’s occupation. Such instruction may be given in a classroom through

occupational or industrial courses, by correspondence courses of equivalent value, by electronic media, or by other forms of self-study approved by the registration agency.

“*Sponsor*” means any person, association, committee or organization operating an apprenticeship program and in whose name the program is (or is to be) registered or approved.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.42(260C) Apprenticeship programs. For an apprenticeship program to be offered by a community college or a local educational agency, the program must be approved by the U.S. Department of Labor, Office of Apprenticeship, and meet all requirements outlined in the National Apprenticeship Act, 29 U.S.C. §50, 29 CFR Parts 29 and 30 or as specified in Iowa Code chapter 84D.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.43 to 21.49 Reserved.

The rules in this division are intended to implement Iowa Code section 260C.44 and the National Apprenticeship Act, 29 U.S.C. §50, and 29 CFR Parts 29 and 30.

DIVISION V
MISCELLANEOUS PROVISIONS

281—21.50(260C,322) Used motor vehicle dealer education program. An applicant for a license from the department of transportation as a used motor vehicle dealer will complete a minimum of eight hours of preclicensing education program courses pursuant to Iowa Code section 322.7A prior to submitting the application. The education program courses are provided by community colleges or by the Iowa Independent Automobile Dealers Association in conjunction with a community college. The reasonable fee for both the preclicensing education program courses and continuing education courses will not exceed \$55 per contact hour of instruction, which includes course materials and administrative costs.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.51 to 21.59 Reserved.

The rules in this division are intended to implement Iowa Code chapter 260C and section 322.7A.

DIVISION VI
COMMUNITY COLLEGE ACCREDITATION

281—21.60(260C) Scope. Each community college is subject to accreditation by the state board of education, as provided in Iowa Code section 260C.47. The state board of education will grant accreditation if a community college meets the standards established in this chapter.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.61(260C) Accreditation components and criteria—Higher Learning Commission. To be accredited by the state board of education and maintain accreditation status, a community college must meet the accreditation criteria of the Higher Learning Commission and additional state standards. Documents and materials provided in accordance with the accreditation requirements of the Higher Learning Commission will also be provided to the department for the state accreditation process.

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.62(260C) Accreditation components and criteria—additional state standards. To be granted accreditation by the state board of education, an Iowa community college will also meet additional standards pertaining to minimum or quality assurance standards for faculty (Iowa Code section 260C.48(1)); faculty load (Iowa Code section 260C.48(2)); special needs and protected classes (Iowa Code section 260C.48(3)); career and technical education program evaluation (Iowa Code section 256.130(7)); facilities, parking lots and roads; strategic planning; quality faculty plan (Iowa Code section 260C.36); senior year plus programs (Iowa Code chapter 261E); as well as any other items referenced in this chapter.

21.62(1) Faculty.

a. Community college-employed instructors who teach college credit courses shall meet minimum standards and institutional quality faculty plan requirements. Standards will at a minimum require that all community college instructors meet the following requirements:

(1) Instructors teaching courses in the area of career and technical education will be registered, certified, or licensed in the occupational area in which the state requires registration, certification, or licensure and shall meet at least one of the following qualifications:

1. Possess a baccalaureate degree or higher in the field of instruction in which the instructor teaches classes, or possess a baccalaureate degree in any area of study if at least 18 of the credit hours completed were in the career and technical field of instruction in which the instructor teaches classes.

2. Possess an associate degree in the career and technical education field of instruction in which the instructor is teaching, if such degree is considered terminal for that field of instruction, and have at least 3,000 hours of recent and relevant work experience in the occupational area or related occupational area in which the instructor teaches classes.

3. Have special training and at least 6,000 hours of relevant tested experience in the occupational area or related occupational area in which the instructor teaches classes if the instructor possesses less than a baccalaureate degree in the area or related area of study or occupational area in which the instructor is teaching classes and the instructor does not meet the requirements of subparagraph 21.62(1)“a”(2).

(2) For purposes of numbered paragraphs 21.62(1)“a”(1)“2” and “3,” if the instructor is a licensed practitioner who holds a career and technical endorsement under Iowa Code chapter 256, subchapter VII, part 3, relevant work experience in the occupational area includes, but is not limited to, classroom instruction in a career and technical education subject area offered by a school district or accredited nonpublic school.

(3) Instructors in the area of arts and sciences shall meet the following qualifications set forth in Iowa Code section 260C.48.

b. For courses identified as applied liberal arts and sciences, possess at least a bachelor’s degree and a combination of formal training and professional tested experience equivalent to 6,000 hours. The instructor shall hold the appropriate registration, certification, or licensure in occupational areas in which such credential is necessary for practice.

c. Developmental education and noncredit instructors are not subject to standards under this subrule.

d. Adult education instructors will meet the minimum standards set forth in 877—Chapter 32. Instructional staff providing instruction in an adult education and literacy program to students must possess at minimum a bachelor’s degree.

e. A faculty standards council will be convened by the department to review procedures for establishing and reviewing minimum instructor qualifications and definitions for “field of instruction,” “applied liberal arts and sciences courses,” “qualifying graduate field or major,” and “relevant tested experience.” Definitions will be based on accepted practices of regionally accredited two- and four-year institutions of higher education.

(1) The council will include faculty and academic administrators and meet at least annually. The council will make recommendations to a committee consisting of the chief academic officers of Iowa’s 15 community colleges. The committee will adopt definitions and minimum faculty qualification standards to be utilized for the state accreditation process. Each community college will adhere to the adopted definitions and minimum faculty qualification standards.

(2) When utilizing relevant tested experience to qualify an instructor to teach classes within a specific field of instruction, each community college will maintain well-defined policies, procedures, and documentation in alignment with the adopted definitions and minimum faculty qualification standards. This documentation will demonstrate that the instructor possesses the experience and expertise necessary to teach in the specified field of instruction and is current in the instructor’s discipline. When tested experience is assessed, an hour of relevant work is equal to 60 minutes and one full-time year of relevant work is equal to 2,000 hours.

f. Volunteer staff will possess at minimum a high school diploma or high school equivalency diploma.

21.62(2) Faculty load.

a. Arts and sciences. The full-time teaching load of an instructor in arts and sciences courses will be 15 credit hours within a traditional semester or the equivalent and will not exceed a maximum of 16 credit hours within a traditional semester or the equivalent. An instructor may also have an additional teaching assignment beyond the maximum academic workload, provided the instructor and the community college administration mutually consent to this additional assignment and the total workload does not exceed the equivalent of 22 credit hours within a traditional semester or the equivalent.

b. Career and technical education. The full-time teaching load of an instructor in career and technical education programs will not exceed an aggregate of 30 hours per week or the equivalent. An instructor may also teach the equivalent of an additional three credit hours, provided the instructor consents to this additional assignment. When the teaching assignment includes classroom subjects (nonlaboratory), consideration will be given to establishing the teaching load more in conformity with that of paragraph 21.62(2) “a.”

21.62(3) Special needs and protected classes. Community colleges shall provide equal access to the full range of program offerings and services including recruitment, enrollment, and placement activities for students with special education needs or protected by state or federal civil rights regulations. Students with disabilities shall be given access to the full range of program offerings at a college through reasonable accommodations.

21.62(4) Career and technical education evaluation. The director of the department shall ensure that Iowa’s community colleges annually review at least 20 percent of approved career and technical education programs. The community college career and technical program review and evaluation system must ensure that the programs meet requirements as specified in 281—Chapter 46.

21.62(5) Facilities, parking lots and roads.

a. Facilities master planning. Each community college shall present evidence of adequate planning, including a board-approved facilities plan. Planning includes tentative program approval, a master campus plan, written educational specifications, site plot showing location of proposed and existing facilities, elevations and floor plans.

b. Accessibility and safety. All new or remodeled facilities (buildings and programs offered in such facilities) and services in such facilities shall be made functional and usable for persons with special needs, comply with Iowa Code chapter 104A and the Americans With Disabilities Act, 42 U.S.C. §12101, and address issues of campus safety and security as required by Iowa Code chapter 260C and by the federal Clery Act, 20 U.S.C. §1092(f). All parking areas and roads will comply with all state and federal rules and regulations dealing with roads, parking ramps, and accessibility requirements.

c. Adequate facilities. All administrative facilities, classrooms, laboratories, and related facilities will be educationally adequate for the purpose for which they are designed.

d. Library or learning resource center. A library or learning resource center will be planned as part of the master campus plan and space made for library or learning resource center services within the initial construction.

(1) Facilities. Community college libraries or learning resource centers shall provide the facilities and resources needed to support the total educational program of the institution and shall show evidence that the facilities and the resources are being used effectively and efficiently. Adequate consideration shall be given to the seating, comfort, setting, and technology of the facility used to house the collection and learning resources.

(2) Staffing. The library or learning resource center will be adequately staffed with qualified professionals and skilled nonprofessional personnel.

(3) Collection. The library and learning resource center materials collection of a community college shall be accessible and adequate in size and scope to serve effectively the number and variety of programs offered and the number of students enrolled, including distance and satellite sites. The library and learning resource center materials collection will show evidence of having been selected by faculty

as well as professional library or learning resource staff and shall be kept up to date through a planned program of acquisition and deletion. The library and learning resource center materials collection will contain a range and number of print and nonprint materials and appropriate electronic information resources.

(4) Expenditures. The budget of the library or learning resource center will be appropriate for the programs and services offered by the institution. New programs and new curricula will be reflected in library or learning resource center expenditures.

e. Student center. An area of the college will be provided where students may gather informally and where food is available.

f. Laboratories, equipment and supplies. Laboratories, equipment and supplies will be comparable with those used in the occupations for which instruction is offered. Similarly, college parallel or transfer courses will be supported in a manner comparable to those conditions that prevail in standard, regionally accredited colleges and universities to which students may wish to transfer college credits.

g. Physical plant. The site, buildings and equipment of the community college will be well maintained and in good condition. At a minimum, a five-year ongoing, systematic maintenance and facilities plan approved by the local community college board will be in evidence. The physical plant will be adequate in size and properly equipped for the program offered. All remodeling of existing facilities will comply with Iowa Code chapter 104A and the federal Americans with Disabilities Act, 42 U.S.C. §12101 et seq.

21.62(6) Strategic planning. At a minimum, the community college will prepare a high-quality, board-approved strategic plan at least once every five years, and that plan will be effectively implemented to guide the college and its decision-making.

21.62(7) Quality faculty plan. The community college will establish a quality faculty committee consisting of instructors and administrators to develop and maintain a plan for hiring and developing quality faculty. The committee will have equal representatives of arts and sciences and career and technical faculty with no more than a simple majority of members of the same gender. Faculty will be appointed by the certified employee organization representing faculty, if any, and administrators will be appointed by the college's administration. If no faculty-certified employee organization representing faculty exists, the faculty will be appointed by administration pursuant to Iowa Code section 260C.48(4). The committee will submit the plan to the board of directors for consideration, approval and submittal to the department. Standards relating to quality assurance of faculty and ongoing quality professional development will be the accreditation standards of similar accredited institutions of higher education that are consistent with the standards established pursuant to this rule and the faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. For purposes of this subrule, "accredited" means that an institution of higher education meets the standards established by an accrediting agency recognized under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

a. For purposes of this subrule, the following definitions apply:

"*Counselor*" means those who are classified as counselors as defined in the college's collective bargaining agreement or written policy.

"*Media specialist*" means those who are classified as media specialists as defined in the college's collective bargaining agreement or written policy.

b. The institutional quality faculty plan is applicable to all community college-employed faculty teaching college credit courses, counselors, and media specialists. The plan requirements may be differentiated for each type of employee. The plan will include, at a minimum, each of the following components:

(1) Plan maintenance. The quality faculty committee will submit proposed plan modifications to the board of directors for consideration and approval. It is recommended that the plan be updated at least annually.

(2) A determination of the faculty and staff to be included in the plan, including all instructors teaching college credit courses, counselors, and media specialists.

(3) Orientation for new faculty. It is recommended that new faculty orientation be initiated within six months from the hiring date. It is recommended that the orientation of new faculty be flexible to meet current and future needs and provide options other than structured college courses for faculty to improve teaching strategies, curriculum development and evaluation strategies. It is recommended that the college consider developing a faculty mentoring program.

(4) Continuing professional development for faculty. It is recommended that the plan clearly specify required components including time frame for continuing professional development for faculty. It is recommended that the plan include the number of hours, courses, workshops, professional and academic conferences or other experiences, such as industry internships, cooperatives and exchange programs that faculty may use for continuing professional development. It is recommended that the plan include prescribed and elective topics, such as discipline-specific content and educational trends and research. Examples of topics that may be considered include dealing with the complexities of learners, skills in teaching adults, curriculum development, assessment, evaluation, enhancing students' retention and success, reaching nontraditional and minority students, improving skills in implementing technology and applied learning, leadership development, and issues unique to a particular college. The institutional quality faculty plan will include continuing professional development components for all instructional staff, counselors, and media specialists, and may include reciprocity features that facilitate movement from one college to another.

(5) Procedures for accurate record keeping and documentation for plan monitoring. It is recommended that the plan identify the college officials or administrators responsible for the administration, record keeping and ongoing evaluation and monitoring of the plan. It is recommended the plan monitoring, evidence collected, and records maintained showing implementation of the plan be comprehensive in scope. It is recommended that the plan provide for the documentation that each faculty member appropriately possesses, attains or progresses toward attaining minimum competencies.

(6) Consortium arrangements where appropriate, cost-effective and mutually beneficial. It is recommended that the plan provide an outline of existing and potential consortium arrangements including a description of the benefits, cost-effectiveness, and method of evaluating consortium services.

(7) Specific activities that ensure that faculty attain and demonstrate instructional competencies and knowledge in their subject or technical areas. It is recommended that the plan identify faculty minimum competencies and explain the method or methods of determining and assessing competencies. It is recommended that the plan contain procedures for reporting faculty progress. It is recommended that faculty be notified at least once a year of their progress in attaining competencies.

(8) Procedures for collection and maintenance of records demonstrating that each faculty member has attained or documented progress toward attaining minimum competencies. It is recommended that the plan specify data collection procedures that demonstrate how each faculty member has attained or has documented progress toward attaining minimum competencies.

c. Compliance with the faculty accreditation standards of similar accredited institutions of higher education that are consistent with the standards established pursuant to Iowa Code section 260C.48 and with faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. For purposes of this paragraph, "accredited" means that an institution of higher education meets the standards established by an accrediting agency recognized under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

d. The department will review the plan during the state accreditation evaluations to ensure each community college's compliance and progress in implementing a quality faculty plan as approved by the local board of directors. The department shall review the following:

(1) Documents submitted by the college that demonstrate that the plan includes each component required by paragraph 21.62(7) "b."

(2) Documentation submitted by the college that the board of directors approved the plan.

(3) Documentation submitted by the college that the college is implementing the approved plan, including evidence of plan monitoring, evaluation and updating; evidence that the faculty has met minimum requirements of the quality faculty plan contained in Iowa Code section 260C.48;

and evidence that faculty members have been notified of their progress toward attaining minimum requirements.

(4) Documentation that the college administration encourages the continued development of faculty potential as defined in Iowa Code section 260C.36.

(5) Documentation of the human resources report submitted by the college through the department's community college management information system.

21.62(8) *Senior year plus.* The community college shall provide access to joint enrollment opportunities for high school age students. Each college will comply with the appropriate standards defined in Iowa Code chapter 261E.

21.62(9) *Student services.* A program of student services will be provided to meet the needs of students in the community college. The program of student services, at a minimum, will include the following functional areas:

- a. Orientation to college and career opportunities and requirements.
- b. Appraisal of individual potential.
- c. Consultation with students about their plans, progress and problems.
- d. Participation of students in activities that supplement classroom experiences.
- e. Regulation to provide an optimal climate for social and academic development.
- f. Services that facilitate community college attendance through a program of financial assistance, and facilitate transition to further education or employment.
- g. Organization that provides for continuing articulation, evaluation and improvement of the student services program.
- h. Campus safety and security as required by Iowa Code chapter 260C and the federal Clery Act, 20 U.S.C. §1092(f), 34 CFR Section 668.46.
[ARC 7790C, IAB 4/17/24, effective 5/22/24]

281—21.63(260C) Accreditation process.

21.63(1) *Components.* The community college accreditation process includes the following components:

- a. Each community college will submit information on an annual basis to the department of education to comply with program evaluation requirements adopted by the state board of education.
- b. The department will conduct a comprehensive on-site accreditation evaluation of each community college on a ten-year interval. An interim evaluation midway between comprehensive evaluations will also be conducted. The department will prepare a staggered evaluation schedule that sets no more than three comprehensive or interim evaluations in any one year. No comprehensive or interim evaluation will be required for continued accreditation prior to a community college's first evaluation under the schedule. The department has the authority to conduct focused evaluation visits as needed.

21.63(2) *Accreditation team.* The size and composition of the accreditation team is determined by the director of the department, but the team will include members of the department staff and staff members from community colleges other than the community college being evaluated for accreditation, and any other technical experts as needed.

21.63(3) *Accreditation team action.* After a visit to a community college, the accreditation team shall evaluate whether the accreditation standards have been met and shall make a report to the director of the department and the state board of education, together with a recommendation as to whether the community college shall remain accredited. The accreditation team will report strengths and opportunities for improvement, if any, for each standard and criterion and will advise the community college of available resources and technical assistance to further enhance strengths and address areas for improvement. A community college may respond to the accreditation team's report.

21.63(4) *State board of education consideration of accreditation.* The state board of education will determine whether a community college remains accredited. Approval of accreditation for a community college by the state board of education will be based upon the recommendation of the director of the department after study of the factual and evaluative evidence on record pursuant to the standards and

criteria described in this chapter, and based upon the timely submission of information required by the department in a format provided by the department. With the approval of the director of the department, a focused visit may be conducted if the situation at a particular college warrants such a visit.

a. Accreditation granted. Continuation of accreditation, if granted, will be for a ten-year term with a comprehensive evaluation occurring once every ten years and an interim evaluation midway between comprehensive evaluations; however, approval for a lesser term may be granted by the state board of education if the board determines that conditions so warrant.

b. Accreditation denied or conditional accreditation. If the state board of education denies accreditation or grants conditional accreditation, the director of the department, in cooperation with the board of directors of the community college, will establish a plan prescribing the procedures that must be taken to correct deficiencies in meeting the standards and criteria and will establish a deadline for correction of the deficiencies. The plan will be submitted to the director within 45 days following the notice of accreditation denial or conditional accreditation. The plan will include components that address correcting deficiencies, sharing or merger options, discontinuance of specific programs or courses of study, and any other options proposed by the state board of education or the accreditation team to allow the college to meet the accreditation standards and criteria.

c. Implementation of plan. During the time specified in the plan for its implementation, the community college remains accredited. The accreditation team will revisit the community college to evaluate whether the deficiencies in the standards or criteria have been corrected and will make a report and recommendation to the director and the state board of education. The state board of education will review the report and recommendation, may request additional information and determine whether the deficiencies have been corrected.

d. Removal of accreditation. The director will give a community college that fails to meet accreditation standards, as determined by the state board of education, at least one year's notice prior to removal of accreditation. The notice will be sent by certified mail or restricted certified mail addressed to the chief executive officer of the community college and will specify the reasons for removal of accreditation. The notice will also be sent to each member of the board of directors of the community college. If, during the year, the community college remedies the reasons for removal of accreditation and satisfies the director that the community college will comply with the accreditation standards and criteria in the future, the director will continue the accreditation and will transmit notice of the action to the community college by certified mail or restricted certified mail.

e. Failure to correct deficiencies. If the deficiencies have not been corrected in a program of a community college, the community college board of directors will take one of the following actions within 60 days from removal of accreditation:

(1) Merge the deficient program or programs with a program or programs from another accredited community college.

(2) Contract with another accredited postsecondary educational institution for purposes of program delivery at the community college.

(3) Discontinue the program or programs that have been identified as deficient.

f. Appeal process provided. The action of the director to remove the state accreditation of a community college program may be appealed to the state board of education as provided in Iowa Code section 260C.47(7).

[ARC 7790C, IAB 4/17/24, effective 5/22/24]

The rules in this division are intended to implement Iowa Code section 256.130(7) and chapters 260C and 261E.

[Filed 1/11/66, amended 10/5/66, 10/10/66, 4/17/67, 3/11/74]

[Filed 11/20/81, Notice 9/30/81—published 12/9/81, effective 1/13/82]

[Filed 7/16/82, Notice 5/12/82—published 8/4/82, effective 9/8/82]

[Filed 9/15/83, Notice 7/20/83—published 10/12/83, effective 11/16/83]

[Filed 8/27/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]

[Filed 12/13/85, Notice 11/6/85—published 1/1/86, effective 2/6/86]

[Filed 1/9/87, Notice 12/3/86—published 1/28/87, effective 10/1/87]

[Filed 6/12/87, Notice 5/6/87—published 7/1/87, effective 8/5/87]
 [Filed 3/17/88, Notice 2/10/88—published 4/6/88, effective 7/1/88]
 [Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
 [Filed 3/15/89, Notice 2/8/89—published 4/5/89, effective 7/1/89]
 [Filed 3/13/90, Notice 2/7/90—published 4/4/90, effective 7/1/90]
 [Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
 [Filed 3/15/91, Notice 2/6/91—published 4/3/91, effective 5/8/91]
 [Filed 8/16/91, Notice 5/29/91—published 9/4/91, effective 10/9/91]
 [Filed 9/13/91, Notice 2/6/91—published 10/2/91, effective 11/6/91]
 [Filed emergency 12/20/91—published 1/8/92, effective 12/20/91]
 [Filed emergency 1/7/92—published 2/5/92, effective 1/7/92]
 [Filed 3/13/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
 [Filed 4/15/94, Notice 1/19/94—published 5/11/94, effective 6/15/94]
 [Filed 7/12/95, Notice 3/1/95—published 8/2/95, effective 9/9/95]
 [Filed 8/8/97, Notice 6/4/97—published 8/27/97, effective 10/1/97]
 [Filed 9/16/98, Notice 7/15/98—published 10/7/98, effective 11/11/98][◇]
 [Filed emergency 8/4/00—published 8/23/00, effective 8/7/00]
 [Filed 8/2/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]
 [Filed 11/21/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]
 [Filed 5/9/03, Notice 4/2/03—published 5/28/03, effective 7/2/03]
 [Filed 11/19/03, Notice 9/17/03—published 12/10/03, effective 1/14/04]
 [Filed 11/14/07, Notice 8/15/07—published 12/5/07, effective 1/9/08][◇]
 [Filed 11/20/08, Notice 8/27/08—published 12/17/08, effective 1/21/09]
 [Filed ARC 8646B (Notice ARC 8390B, IAB 12/16/09), IAB 4/7/10, effective 5/12/10]
 [Filed ARC 9901B (Notice ARC 9686B, IAB 8/24/11), IAB 12/14/11, effective 1/18/12]
 [Filed ARC 0687C (Notice ARC 0531C, IAB 12/12/12), IAB 4/17/13, effective 5/22/13]
 [Filed ARC 1433C (Notice ARC 1340C, IAB 2/19/14), IAB 4/30/14, effective 6/4/14]
 [Filed ARC 2021C (Notice ARC 1879C, IAB 2/18/15), IAB 6/10/15, effective 7/15/15]
 [Filed ARC 3288C (Notice ARC 3087C, IAB 6/7/17), IAB 8/30/17, effective 10/4/17]
 [Filed ARC 3982C (Notice ARC 3824C, IAB 6/6/18), IAB 8/29/18, effective 10/3/18]
 [Filed ARC 5741C (Notice ARC 5583C, IAB 4/21/21), IAB 6/30/21, effective 8/4/21]
 [Filed ARC 7790C (Notice ARC 7603C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

CHAPTER 23

ADULT EDUCATION AND LITERACY PROGRAMS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 34]

Transferred to 877—Chapter 32, IAC Supplement 8/23/23

CHAPTER 24

COMMUNITY COLLEGE ACCREDITATION

Rescinded **ARC 7790C**, IAB 4/17/24, effective 5/22/24

CHAPTER 34
FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS
OR MENTAL HEALTH INSTITUTES

281—34.1(282) Scope. These rules apply to the funding and provision of appropriate educational services to children residing in the following institutions under the jurisdiction of the director of the department of health and human services: the Mental Health Institute, Independence, Iowa; and the State Training School, Eldora, Iowa.
[ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.2(282) Definitions. For the purposes of these rules, the following definitions apply:

“*AEA*” means an area education agency.

“*Aggregate days*” means the sum of the number of days of attendance, excluding days absent, for all school-age pupils who are enrolled during the school year. A student is considered enrolled after being placed in the institution and taking part in the educational program. Enrollment begins on the date that the student begins taking part in the educational program and ends on the date that the student leaves the institution or receives a high school diploma or its equivalent, whichever occurs first.

“*Average daily attendance*” or “*ADA*” means the average obtained by dividing the total of the aggregate days of attendance by the total number of student contact days. ADA for purposes of this chapter will be calculated on the regular school year exclusive of summer session.

“*Department*” means the Iowa department of education.

“*District of residence*” means the school district in which the parent or guardian of the child resides or as defined under operation of law. If the student’s parental rights have been terminated or if a parent cannot be located in Iowa after a reasonable effort has been made, the school district of the child’s residence is considered the district where the institution is physically located.

“*Individualized education program*” or “*IEP*” means the written record of an eligible individual’s special education and related services developed in accordance with 281—Chapter 41. The IEP document records the decisions reached at the IEP meeting and sets forth in writing a commitment of resources necessary to enable an eligible individual to receive needed special education and related services appropriate to the individual’s special learning needs. There is one IEP that specifies all the special education and related services for an eligible individual.

“*Institution*” means the Mental Health Institute, Independence, Iowa; and the State Training School, Eldora, Iowa.

“*Proposed educational program*” means a written description of the general education program, special education services, transition activities, and summer school programs that are proposed to be implemented in order to provide appropriate educational services for each child residing in an institution.

“*Proposed educational program budget*” means a document that outlines the costs for providing the proposed educational program as defined in these rules.

“*Regular school year*” means the number of days that school is in session, not to exceed 180 days. The regular school year for each institution shall begin on the first day of school established by the school district in which each institution is located.

“*School-age pupil*” means a student who is a resident of the state of Iowa and who is at least 5 years of age but less than 21 years of age on September 15 of the school year, or a younger age if served pursuant to an IEP.

“*Student contact days*” means the days during which the educational program is provided and students are under the guidance and instruction of the professional instructional staff.

“*Transition*” means communication between the institution, the child’s district of residence, and any other relevant stakeholders to develop a plan for assisting the child to adjust to school in the district of residence upon the child’s return. Planning for support and follow-up includes contacts with the child’s district of residence, community agencies, and the AEA when needed.

[ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.3(282) General principles.

34.3(1) Availability. All children who reside in state institutions and the mental health institute shall be provided appropriate educational services in accordance with these rules. Special education services to eligible individuals in institutions will be provided in accordance with 281—Chapter 41.

34.3(2) Responsibility of institutions. It is the responsibility of institutions to provide or make provisions for appropriate educational services to children residing in these institutions and to ensure appropriate transition of children back to the school district of residence. The institution may make provisions by contracting with the AEA, the school district in which the institution is located, or an approved charter school.

34.3(3) Basis for funding. Funding for general education programs at the institutions is determined using a formula similar to the formula used for the determination of funding for local school districts while considering the unique setting of the institutions. The amount of special education funding is determined by comparing the structure of the general education program at each institution to the nature and extent of services necessary for students with special education needs beyond what is provided to all students by the general education program.

34.3(4) Responsibility of the AEA. It is the responsibility of the AEA in which the institution is located to provide media services, educational services, and special education support services. The nature and extent of these services will be comparable to those provided to school districts in the AEA. [ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.4(282) Notification.

34.4(1) Students served at mental health institute. The Mental Health Institute, Independence, Iowa, will notify the district of residence of each child who, on the date specified in Iowa Code section 257.6(1), is residing in this institution. The notification will occur on or before October 10 and be in writing or in a printable electronic medium and include the child's name, birth date, and grade level and the names and addresses of the child's parents or guardians.

34.4(2) Students served at the State Training School at Eldora. The State Training School at Eldora will notify the AEA in which the institution is located and the district of residence of each child who, on the date specified in Iowa Code section 257.6(1), is residing in the institution if the child's release date is known and the release date is within the current school year. The notification will occur on or before October 10. For students served pursuant to an IEP, the State Training School at Eldora will by the last Friday in October also notify the AEA in which the institution is located and the district of residence of each child residing in the institution if the child's release date is known and the release date is within the current school year. Notifications will be in writing or in a printable electronic medium and include the child's name, birth date, and grade level and the names and addresses of the child's parents or guardians. [ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.5(218) Program submission and approval. Educational programs will be submitted, reviewed, modified, and approved using the following procedures:

34.5(1) Submission. Each institution will submit a proposed educational program in a time and manner specified by Iowa Code section 282.33(1). The proposed program will be submitted in the manner prescribed by the department and include a description of the following:

a. The general education program, including content standards, benchmarks, student learning goals and all other provisions of 281—Chapter 12.

b. Special education services, including instructional, support and other services that ensure the provision of a free appropriate public education in the least restrictive environment for students with disabilities in accordance with 281—Chapter 41.

c. Procedures that will be implemented to ensure the effective transition of each child back to the district of residence.

34.5(2) Approval. The department will review and approve or modify the proposed educational program at a time and manner specified in Iowa Code section 282.33(1). [ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.6(218) Budget submission and approval. Educational program budgets will be submitted, reviewed, modified, and approved using the following procedures:

34.6(1) *Submission.* Each institution will submit a proposed educational program budget in a time and manner specified by Iowa Code section 282.33(1). The proposed budget is to be based on the ADA of the children residing in the institution. The ADA used for the proposed budget is the ADA for the school year that ended the previous June 30.

34.6(2) *Students not served pursuant to an IEP.* The budget will be calculated as the sum of the following:

a. ADA multiplied by the state cost per pupil for the budget year established pursuant to Iowa Code section 257.9.

b. ADA multiplied by the per pupil media services funding for the AEA in which the institution is located as established by Iowa Code section 257.37.

c. ADA multiplied by the per pupil educational services funding for the AEA in which the institution is located as established by Iowa Code section 257.37.

34.6(3) *Students served pursuant to an IEP.* The budget will be calculated as the sum of the following:

a. Costs established pursuant to subrule 34.6(2) for students not served pursuant to an IEP.

b. Additional weighting established by the special education weighting plan pursuant to Iowa Code section 257.31(12) as appropriate to support the nature and extent of special education services provided pursuant to subrule 34.3(3).

c. Special education student count multiplied by the special education support cost per pupil funding established for the AEA in which the institution is located pursuant to Iowa Code section 257.9.

d. The State Training School at Eldora may include in its budget an amount that represents the difference between the amount established pursuant to Iowa Code section 282.28 (2003) and approved by the department for the 2003-2004 fiscal year included in the fiscal year beginning July 1, 2003, and the amount the institution has budgeted under paragraph 34.6(3) “*c.*” The budget amount will increase annually by the allowable growth rate established for that year.

e. In addition to the amount the institution has budgeted as specified in paragraph 34.6(3) “*c.*” the mental health institute may include annually in its budget an amount not to exceed \$200,000 based on the budget calculation specified in paragraph 34.6(2) “*a.*” This budgeted amount may be adjusted to an amount that exceeds \$200,000 in circumstances when there is a significant increase in the number of students in attendance. This additional amount will increase annually by the allowable growth rate established for that year.

34.6(4) *Approval.* The department will review and approve or modify the proposed educational program budget at a time and manner specified in Iowa Code section 282.33(1).

[ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.7(282) Payments.

34.7(1) *General.* Payments to institutions will be made at a time and manner specified in Iowa Code section 282.33(1).

34.7(2) *Payments to the AEA.* Within ten days of receiving its payment, the institution shall pay to the AEA in which the institution is located one-tenth of the total funding included in its approved budget for AEA media services, educational services, and special education support services.

[ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.8(282) Accounting for actual program costs. Each institution will submit an accounting for the actual cost of the program to the department at a time and manner specified by Iowa Code section 282.33(1).

34.8(1) *Instructional costs.* Actual costs include salaries and benefits of instructional staff, instructional supplies and materials, professional development for instructional staff, student transportation, contracted services related to instruction or instructional staff, and instructional equipment.

34.8(2) *Administrative costs.* Costs for administering the educational program may be included in actual costs based on the ADA of students in the institution. Costs are to be limited to the salary and benefits of the full-time equivalent education administrators and clerical support for the instructional program. However, the full-time equivalent (FTE) positions at any institution will not exceed 1.0 FTE position for education administration and 1.0 FTE position for clerical support.

34.8(3) *Unallowed costs.* Costs will not include expenditures for debt services or for facilities acquisition and construction services, including remodeling and facility repair. Costs of residential, custodial, treatment, and similar services provided by the institution will not be included in the actual costs. Costs provided for by a grant or other categorical aid shall not be included in the actual cost calculations pursuant to this chapter.

34.8(4) *Summer school costs.* Costs for providing summer school will be reported separately from regular session costs. Except as approved by the department of education, summer session costs are considered to be included in the state cost per pupil, or as provided in an appropriation through the department of health and human services.

34.8(5) *Instruction to nonresident students.* Costs for providing instruction to students who are not residents of the state of Iowa are excluded from the actual cost calculations.

34.8(6) *Maximum costs for students who are not served pursuant to an IEP.* Actual costs for serving students who are not served pursuant to an IEP will not exceed the greater of the actual ADA for the school year multiplied by the state cost per pupil or the ADA from the approved budget multiplied by the state cost per pupil.

34.8(7) *Maximum costs for students served pursuant to an IEP.* Actual costs for students served pursuant to an IEP will not exceed the amount calculated in subrule 34.6(3).

34.8(8) *Approval of expenditures.* The department will review and approve or modify all expenditures incurred in compliance with the guidelines adopted pursuant to Iowa Code section 256.7(10) and notify the department of revenue of the approved accounting amount. The approved accounting amount will be compared with any amounts paid by the department of revenue to the department of health and human services and any differences added to or subtracted from the October payment made under these rules for the next school year.

34.8(9) *Costs of courses.* Costs include the actual expenses, if reasonable and customary, for tuition, textbooks, course materials, and fees directly related to courses taken pursuant to rule 281—34.10(282) by students who are residents of the state of Iowa.

34.8(10) *Accounting for ADA.* Each institution will keep a daily register that includes the name, birth date, district of residence, attendance, and enrollment status of each student. At the end of the school year, each institution will calculate the ADA for students served pursuant to an IEP and the ADA for students not served pursuant to an IEP. This information will be reported with the accounting for the actual program costs submitted to the department by August 1.

34.8(11) *Audit.* Each institution will make the records related to providing educational services to students residing within the institution available to independent auditors, state auditors and department of education staff upon request.

[ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.9(282) AEA services. Each institution will purchase from the AEA in which the institution is located support, related and other services necessary to provide appropriate educational programs to students requiring special education, and payment for the purchased services shall be made in accordance with subrule 34.7(2). The nature and extent of such services will be comparable to those provided to school districts in the AEA.

[ARC 7791C, IAB 4/17/24, effective 5/22/24]

281—34.10(282) Postsecondary credit courses. High school students who attend an institution and are residents of the state of Iowa are eligible to be enrolled in college courses offered by an eligible postsecondary institution as defined in Iowa Code section 261E.2(3) and to receive both secondary and postsecondary credit therefor.

34.10(1) *Noneligible courses.* Postsecondary courses utilized in the attainment of an adult diploma or high school equivalency diploma are not eligible for funding hereunder.

34.10(2) *Eligible courses.* Postsecondary courses eligible for funding hereunder must meet all of the following paragraphs. The course is to be:

- a. Supplementing, not supplanting, courses offered at the institution.
- b. Included in the college catalog or an amendment or addendum to the catalog.
- c. Open to all registered college students, not just secondary students.
- d. Taught by a college-employed instructor.
- e. Taught utilizing the college course syllabus.
- f. Of the same quality as a course offered on a college campus.
- g. Nonsectarian.

34.10(3) *Maximum number of college courses allowed.* A student is allowed to take a maximum of three college courses during a semester, for a maximum of six college courses per regular school year, while the student is in attendance at the institution. College courses taken outside the regular school year will not be funded under this chapter. If the student exceeds the course limit, the costs of the additional courses will not be funded under this chapter.

[ARC 7791C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 282.33.

[Filed 11/19/03, Notice 10/1/03—published 12/10/03, effective 1/14/04]

[Filed 4/19/07, Notice 3/14/07—published 5/9/07, effective 6/27/07]

[Filed ARC 5328C (Notice ARC 5150C, IAB 8/26/20), IAB 12/16/20, effective 1/20/21]

[Filed ARC 7791C (Notice ARC 7588C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

TITLE VII
SPECIAL EDUCATION

CHAPTER 41
SPECIAL EDUCATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 12]

DIVISION I
PURPOSE AND APPLICABILITY

281—41.1(256B,34CFR300) Purposes. The purposes of this chapter are set forth in 34 CFR Section 300.1.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.2(256B,34CFR300) Applicability of this chapter. The provisions of this chapter are binding on each public agency in the state that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Individuals with Disabilities Education Act (Act).

41.2(1) General. The provisions of this chapter apply to all political subdivisions of the state that are involved in the education of children with disabilities, including:

- a. The state educational agency (SEA).
- b. Local educational agencies (LEAs), area education agencies (AEAs), and public charter schools that are not otherwise included as LEAs or educational service agencies (ESAs) and are not a school of an LEA or ESA.
- c. Other state agencies and schools, including but not limited to the department of health and human services and state schools and programs for children who are deaf or hard of hearing or children who are blind or visually impaired.
- d. State and local juvenile and adult correctional facilities.

41.2(2) Private schools and facilities. Each public agency in the state is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities referred to or placed in private schools and facilities by that public agency; or placed in private schools by their parents under the provisions of rule 281—41.148(256B,34CFR300).

41.2(3) Age. This chapter applies to all children requiring special education between birth and the twenty-first birthday and to a maximum allowable age under Iowa Code section 256B.8.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

DIVISION II
DEFINITIONS

281—41.3(256B,34CFR300) Act. “Act” means the Individuals with Disabilities Education Act as amended through August 14, 2006.

281—41.4(256B,273) Area education agency. “Area education agency” or “AEA” is a political subdivision of the state organized pursuant to Iowa Code chapter 273. An area education agency, depending on context, may be a local educational agency as defined in rule 281—41.28(256B,34CFR300), an educational service agency as defined in rule 281—41.12(256B,34CFR300), or both simultaneously.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.5(256B,34CFR300) Assistive technology device. “Assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted or the replacement of such device.

281—41.6(256B,34CFR300) Assistive technology service. “Assistive technology service” means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes the following:

1. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for a child with a disability or, if appropriate, that child’s family; and
6. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

281—41.7(256B,34CFR300) Charter school. “Charter school” has the meaning given the term in Section 4310(2) of the Elementary and Secondary Education Act of 1965 as amended through December 10, 2015, 20 U.S.C. 6301 et seq. (ESEA).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.8(256B,34CFR300) Child with a disability. “Child with a disability” refers to a person under 21 years of age, including a child under 5 years of age, who has a disability in obtaining an education. The term includes an individual who is over 6 and under 16 years of age who, pursuant to the statutes of this state, is required to receive a public education; an individual under 6 or over 16 years of age who, pursuant to the statutes of this state, is entitled to receive a public education; and an individual between the ages of 21 and 24 who, pursuant to the statutes of this state, is entitled to receive special education and related services. In federal usage, this refers to infants, toddlers, children and young adults. In these rules, this term is synonymous with “child requiring special education” and “eligible individual.” “Disability in obtaining an education” refers to a condition, identified in accordance with this chapter, which, by reason thereof, causes a child to require special education and support and related services.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.9(256B,34CFR300) Consent.

41.9(1) Obtaining consent. “Consent” is obtained when all of the following conditions are satisfied:

- a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication;
- b. The parent understands and agrees in writing to the carrying out of the activity for which parental consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
- c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

41.9(2) When revocation of consent is effective. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that occurred after the consent was given and before the consent was revoked).

41.9(3) Special rule. If a parent of a child revokes consent, in writing, for the child’s receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child’s education records to remove any references to the child’s receipt of special education and related services because of the revocation of consent.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.10(256B,34CFR300) Core academic subjects. “Core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

281—41.11(256B,34CFR300) Day; business day; school day. “Day” means calendar day unless otherwise indicated as business day or school day.

1. “Business day” means Monday through Friday, except for federal and state holidays, unless holidays are specifically included in the designation of business day, as in paragraph 41.148(4)“b.”

2. “School day” means any day, including a partial day, when children are in attendance at school for instructional purposes. School day has the same meaning for all children in school, including children with and without disabilities. The length of the school day for an eligible individual shall be the same as that determined by the local educational agency’s board of directors for all other individuals, unless a shorter day or longer day is prescribed in the eligible individual’s individualized education program.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.12(256B,34CFR300) Educational service agency. “Educational service agency” means a regional public multiservice agency that is authorized by state law to develop, manage, and provide services or programs to LEAs; and is recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state. “Educational service agency” includes any other public institution or agency that has administrative control and direction over a public elementary school or secondary school and includes entities that meet the definition of intermediate educational unit in Section 602(23) of the Act as in effect prior to June 4, 1997.

281—41.13(256B,34CFR300) Elementary school. “Elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

281—41.14(256B,34CFR300) Equipment. “Equipment” means machinery, utilities, and built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment. “Equipment” includes other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

281—41.15(256B,34CFR300) Evaluation. “Evaluation” means procedures used in accordance with rules 281—41.304(256B,34CFR300) to 281—41.311(256B,34CFR300) to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

281—41.16(256B,34CFR300) Excess costs. “Excess costs” means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that must be computed after deducting the following:

41.16(1) Certain federal funds. Amounts received under Part B of the Act; under Part A of Title I of the ESEA; and under Part A of Title III of the ESEA; and

41.16(2) Certain state or local funds. Any state or local funds expended for programs that would qualify for assistance under subrule 41.16(1), but excluding any amounts for capital outlay or debt service.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.17(256B,34CFR300) Free appropriate public education. “Free appropriate public education” or “FAPE” means special education and related services that are provided at public

expense, under public supervision and direction, and without charge; that meet the standards of the SEA, including the requirements of this chapter; that include an appropriate preschool, elementary school, or secondary school education; and that are provided in conformity with an individualized education program (IEP) that meets the requirements of rules 281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300).

281—41.18 Reserved.

281—41.19(256B,34CFR300) Homeless children. “Homeless children” has the meaning given the term “homeless children and youths” in Section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act as amended through August 14, 2006, 42 U.S.C. 11431 et seq.

281—41.20(256B,34CFR300) Include. “Include” means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

281—41.21(256B,34CFR300) Indian and Indian tribe. “Indian” means an individual who is a member of an Indian tribe. “Indian tribe” means any federal or state Indian tribe, settlement, band, rancheria, pueblo, colony, or community, including any Alaska native village or regional village corporation as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.

281—41.22(256B,34CFR300) Individualized education program. “Individualized education program” or “IEP” means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with rules 281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300). A single IEP for each eligible individual, which specifies all the special education and related services the eligible individual is to receive, is required.

281—41.23(256B,34CFR300) Individualized education program team. “Individualized education program team” or “IEP team” means a group of individuals described in rule 281—41.321(256B,34CFR300) that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

281—41.24(256B,34CFR300) Individualized family service plan. “Individualized family service plan” or “IFSP” has the meaning given the term in Section 636 of the Act.

281—41.25(256B,34CFR300) Infant or toddler with a disability. “Infant or toddler with a disability” means an individual under three years of age who needs early intervention services either because the individual has a condition, based on informed clinical opinion, known to have a high probability of resulting in later delays in growth and development if early intervention services are not provided; or the individual has a developmental delay, which is a 25 percent delay as measured by appropriate diagnostic instruments and procedures, based on informed clinical opinion, in one or more of the following developmental areas: cognitive development, physical development including vision and hearing, communication development, social or emotional development, or adaptive development.

281—41.26(256B,34CFR300) Institution of higher education. “Institution of higher education” has the meaning given the term in Section 101 of the Higher Education Act of 1965 as amended through August 14, 2006, 20 U.S.C. 1021 et seq. (HEA); and also includes any community college receiving funds from the Secretary of the Interior under the Tribally Controlled Community College or University Assistance Act of 1978, 25 U.S.C. 1801 et seq.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.27(256B,34CFR300) Limited English proficient. “Limited English proficient” has the meaning given the term “English learner” in Section 8101 of the ESEA.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.28(256B,34CFR300) Local educational agency.

41.28(1) General. “Local educational agency” or “LEA” means a public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a state, or for a combination of school districts or counties as are recognized in a state as an administrative agency for its public elementary schools or secondary schools.

41.28(2) Educational service agencies and other public institutions or agencies. The term includes an educational service agency, as defined in rule 281—41.12(256B,34CFR300) and any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public nonprofit charter school that is established as an LEA under state law.

41.28(3) BIA-funded schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

281—41.29(256B,34CFR300) Native language.

41.29(1) General. “Native language,” when used with respect to an individual who is limited English proficient, means the following:

a. The language normally used by that individual or, in the case of a child, the language normally used by the parents of the child; or

b. The language normally used by the child in the home or learning environment; this language shall be considered “native language” in all direct contact with a child, including evaluation of the child.

41.29(2) Special rule. For an individual who is deaf or hard of hearing or who is blind or visually impaired, or for an individual with no written language, the mode of communication is that normally used by the individual, such as sign language, braille, or oral communication.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.30(256B,34CFR300) Parent.

41.30(1) General. “Parent” means:

a. A biological or adoptive parent of a child;

b. A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;

c. A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state;

d. An individual acting in the place of a biological or adoptive parent including a grandparent, stepparent, or other relative with whom the child lives or an individual who is legally responsible for the child’s welfare; or

e. A surrogate parent who has been appointed in accordance with rule 281—41.519(256B,34CFR300) or 20 U.S.C. 1439(a)(5).

41.30(2) Rules of construction and application. The following rules are to be used to determine whether a party qualifies as a parent:

a. Except as provided in paragraph 41.30(2)“*b.*,” the biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified to act as a parent under this chapter, must be presumed to be the parent for purposes of this rule unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

b. If a judicial decree or order identifies a specific person or persons under paragraphs “*a.*” to “*d.*” of subrule 41.30(1) to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent for purposes of this rule.

c. “Parent” does not include a public or private agency involved in the education or care of a child or an employee or contractor with any public or private agency involved in the education or care of the child in that employee’s or contractor’s official capacity.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.31(256B,34CFR300) Parent training and information center. “Parent training and information center” means a center assisted under Section 671 or 672 of the Act.

281—41.32(256B,34CFR300) Personally identifiable. “Personally identifiable” means information that contains the name of the child, the child’s parent, or other family member; the address of the child; a personal identifier, such as the child’s social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

281—41.33(256B,34CFR300) Public agency; nonpublic agency; agency. “Public agency” includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the state that are responsible for providing education to children with disabilities. “Nonpublic agency” includes any private organization of whatever form that is responsible for providing education to children with disabilities and that is not a public agency. “Agency” includes public agencies and nonpublic agencies.

281—41.34(256B,34CFR300) Related services.

41.34(1) General. “Related services” means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. “Related services” includes speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. “Related services” also includes school health services and school nurse services, social work services in schools, and parent counseling and training.

41.34(2) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

a. “Related services” does not include a medical device that is surgically implanted, the optimization of that device’s functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

b. Nothing in paragraph “a” of this subrule shall:

(1) Limit the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services as listed in subrule 41.34(1) that are determined by the IEP team to be necessary for the child to receive FAPE;

(2) Limit the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(3) Prevent the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in rule 281—41.113(256B,34CFR300).

41.34(3) Individual related services terms defined. The terms used in this definition are defined as follows:

a. “Audiology” includes:

(1) Identification of children with hearing loss;

(2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(3) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lipreading), hearing evaluation, and speech conservation;

(4) Creation and administration of programs for prevention of hearing loss;

(5) Counseling and guidance of children, parents, and teachers regarding hearing loss; and
(6) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

b. "*Counseling services*" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

c. "*Early identification and assessment of disabilities in children*" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

d. "*Interpreting services*" includes the following:

(1) For children who are deaf or hard of hearing, oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and

(2) For children who are deaf-blind, special interpreting services.

e. "*Medical services*" means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

f. "*Occupational therapy*" means services provided by a qualified occupational therapist, and includes the following:

(1) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(2) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(3) Preventing, through early intervention, initial or further impairment or loss of function.

g. "*Orientation and mobility services*" means services provided to children who are blind or visually impaired by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community, and includes teaching children the following, as appropriate:

(1) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(2) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(3) To understand and use remaining vision and distance low vision aids; and

(4) Other concepts, techniques, and tools.

h. "*Parent counseling and training*" means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

i. "*Physical therapy*" means services provided by a qualified physical therapist.

j. "*Psychological services*" includes the following:

(1) Administering psychological and educational tests, and other assessment procedures;

(2) Interpreting assessment results;

(3) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(4) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(5) Planning and managing a program of psychological services, including psychological counseling for children and parents; and

(6) Assisting in developing positive behavioral intervention strategies.

k. "*Recreation*" includes the following:

(1) Assessment of leisure function;

(2) Therapeutic recreation services;

(3) Recreation programs in schools and community agencies; and

(4) Leisure education.

l. “Rehabilitation counseling services” means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973 as amended through August 14, 2006, 29 U.S.C. 701 et seq.

m. “School health services and school nurse services” means health services that are designed to enable a child with a disability to receive FAPE as described in the child’s IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

n. “Social work services in schools” includes the following:

- (1) Preparing a social or developmental history concerning a child with a disability;
- (2) Group and individual counseling with the child and family;
- (3) Working in partnership with parents and others on those problems in a child’s living situation (home, school, and community) that affect the child’s adjustment in school;
- (4) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (5) Assisting in developing positive behavioral intervention strategies.

o. “Speech-language pathology services” includes the following:

- (1) Identification of children with speech or language impairments;
- (2) Diagnosis and appraisal of specific speech or language impairments;
- (3) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- (4) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
- (5) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

p. “Transportation” includes the following:

- (1) Travel to and from school and between schools;
- (2) Travel in and around school buildings; and
- (3) Specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

41.34(4) Rule of construction. A particular service listed in this rule may also be considered special education under rule 281—41.39(256B,34CFR300), a supplementary aid and service under rule 281—41.42(256B,34CFR300), or a support service under rule 281—41.409(256B,34CFR300).
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.35 Reserved.

281—41.36(256B,34CFR300) Secondary school. “Secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law, except that it does not include any education beyond grade 12.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.37(34CFR300) Services plan. “Services plan” has the meaning given the term in 34 CFR 300.37.

281—41.38(34CFR300) Secretary. “Secretary” means the Secretary of the United States Department of Education.

281—41.39(256B,34CFR300) Special education.

41.39(1) General. “Special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including:

a. Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

b. Instruction in physical education.

41.39(2) *Specific services included in special education.* Special education includes each of the following, if the services otherwise meet the requirements of subrule 41.39(1):

a. Any service listed in this chapter, including support services, related services, and supplemental aids and services, that is specially designed instruction under subrule 41.39(1) or state standards or is required to assist an eligible individual in taking advantage of, or responding to, educational programs and opportunities;

b. Travel training; and

c. Vocational education.

41.39(3) *Individual special education terms defined.* The terms in this definition are defined as follows:

a. *“At no cost”* means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program. An AEA or LEA may ask, but not require, parents of children with disabilities to use public insurance or benefits or private insurance proceeds to pay for services if they would not incur a financial cost, as described in rule 281—41.154(256B,34CFR300).

b. *“Physical education”* means the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports, including intramural and lifetime sports; and includes special physical education, adapted physical education, movement education, and motor development.

c. *“Specially designed instruction”* means adapting, as appropriate to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction:

(1) To address the unique needs of the child that result from the child’s disability; and

(2) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

d. *“Travel training”* means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to:

(1) Develop an awareness of the environment in which they live; and

(2) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

e. *“Vocational education”* means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

281—41.40(34CFR300) State. “State” means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

281—41.41(256B,34CFR300) State educational agency. “State educational agency” or “SEA” means the state board of education or other agency or officer primarily responsible for the state supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the governor or by state law.

281—41.42(256B,34CFR300) Supplementary aids and services. “Supplementary aids and services” means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with rules 281—41.114(256B,34CFR300) to 281—41.116(256B,34CFR300).

281—41.43(256B,34CFR300) Transition services.

41.43(1) General. “Transition services” means a coordinated set of activities for a child with a disability and meets the following description:

a. Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to postschool activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

b. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and includes the following:

- (1) Instruction;
- (2) Related services;
- (3) Community experiences;
- (4) The development of employment and other post-school adult living objectives; and
- (5) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

41.43(2) May be special education or a related service. Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service if required to assist a child with a disability to benefit from special education.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.44(34CFR300) Universal design. “Universal design” has the meaning given the term in Section 3 of the Assistive Technology Act of 1998 as amended through August 14, 2006, 29 U.S.C. 3002.

281—41.45(256B,34CFR300) Ward of the state.

41.45(1) General. Subject to subrules 41.45(2) and 41.45(3), “ward of the state” means a child who, as determined by the state where the child resides, is:

- a.* A foster child;
- b.* In the custody of a public child welfare agency; or
- c.* A ward of the state.

41.45(2) Exception. “Ward of the state” does not include a foster child who has a foster parent who meets the definition of a parent in rule 281—41.30(256B,34CFR300).

41.45(3) Interpretive note. “Ward of the state” is a term rarely used in Iowa law. It would be an extremely rare occurrence for a child to be a ward of the state while not being either a foster child or in the custody of a public child welfare agency.

281—41.46 to 41.49 Reserved.

281—41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals. The following terms may be encountered in the identification of children with disabilities.

41.50(1) Autism. “Autism” means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before the age of three, which adversely affects a child’s educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child’s educational performance is adversely affected primarily because the child has a behavior disorder, as defined in subrule 41.50(2). A child who manifests the characteristics of autism after the age of three could be identified as having autism if the criteria in the first sentence of this subrule are satisfied. This term includes all conditions described by the term “autism spectrum disorder,” which adversely affects a child’s educational performance.

41.50(2) Behavior disorder. “Behavior disorder” (or emotional disturbance) means any condition that exhibits one or more of the following five characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance.

- a. An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- b. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- c. Inappropriate types of behavior or feelings under normal circumstances.
- d. A general pervasive mood of unhappiness or depression.
- e. A tendency to develop physical symptoms or fears associated with personal or school problems.

41.50(3) Deaf-blindness. “Deaf-blindness” means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children who are deaf or hard of hearing or children who are blind or visually impaired.

41.50(4) Deafness. “Deafness” means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a child’s educational performance.

41.50(5) Hearing impairment. “Hearing impairment” means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child’s educational performance but that is not included under the definition of deafness in subrule 41.50(4).

41.50(6) Intellectual disability. “Intellectual disability” means significantly subaverage general intellectual functioning, that exists concurrently with deficits in adaptive behavior and is manifested during the developmental period, and which adversely affects a child’s educational performance.

41.50(7) Multiple disabilities. “Multiple disabilities” means concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

41.50(8) Orthopedic impairment. “Orthopedic impairment” means a severe orthopedic impairment that adversely affects a child’s educational performance. The term includes impairments caused by a congenital anomaly; impairments caused by disease, e.g., poliomyelitis or bone tuberculosis; and impairments from other causes, e.g., cerebral palsy, amputations, and fractures or burns that cause contractures.

41.50(9) Other health impairment. “Other health impairment” means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

- a. Is due to a chronic or acute health problem such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
- b. Adversely affects a child’s educational performance.

41.50(10) Specific learning disability. “Specific learning disability” means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

41.50(11) Speech or language impairment. “Speech or language impairment” means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child’s educational performance.

41.50(12) Traumatic brain injury. “Traumatic brain injury” means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child’s educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

41.50(13) Visual impairment. “Visual impairment,” including blindness, means an impairment in vision that, even with correction, adversely affects a child’s educational performance. The term includes both partial sight and blindness. Individuals who have a medically diagnosed expectation of visual deterioration in adolescence or early adulthood may qualify for instruction in braille reading and writing. [ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.51(256B,34CFR300) Other definitions applicable to this chapter. The following additional definitions apply to this chapter.

41.51(1) Appropriate activities. “Appropriate activities” means those activities that are consistent with age-relevant abilities or milestones that typically developing children of the same age would be performing or would have achieved.

41.51(2) Board. “Board” means the Iowa state board of education.

41.51(3) Department. “Department” means the state department of education.

41.51(4) Director. “Director” means the director of special education of the AEA.

41.51(5) Director of education. “Director of education” means the state director of the department of education.

41.51(6) Early childhood special education. “Early childhood special education” or “ECSE” means special education and related services for those individuals below the age of six.

41.51(7) General curriculum. “General curriculum” means the curriculum adopted by an LEA or schools within the LEA for all children from preschool through secondary school.

41.51(8) General education environment. “General education environment” includes, but is not limited to, the classes, classrooms, services, and nonacademic and extracurricular services and activities made available by an agency to all students. For preschool children who require special education, the general education environment is the environment where appropriate activities occur for children of similar age without disabilities.

41.51(9) General education interventions. “General education interventions” means attempts to resolve presenting problems or behaviors of concern in the general education environment prior to conducting a full and individual evaluation as described in rule 281—41.312(256B,34CFR300).

41.51(10) Head injury. “Head injury” means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects an individual’s educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

41.51(11) Multicategorical. “Multicategorical” means special education in which the individuals receiving special education have different types of disabilities.

41.51(12) School district of the child’s residence. “School district of the child’s residence” or “district of residence of the child” is that school district in which the parent of the individual resides, subject to the following:

a. If an eligible individual is physically present (“lives”) in a district other than the district of residence of the individual’s parent for a primary purpose other than school attendance, then the district of residence of the individual is the district in which the individual resides, and that district becomes responsible for providing and funding the special education and related services.

b. If an eligible individual is physically present (“lives”) in a district other than the district of residence of the individual’s parent solely for the purpose of school attendance, the district of residence remains that of the parent; therefore, the parent must pay tuition to the receiving district. The district of residence cannot be held responsible for tuition payment.

c. If an individual is physically present (“lives”) in an intermediate care facility, residential care facility, or other similar facility, the individual’s district of residence is deemed to be that of the individual’s parents.

d. “Children living in a foster care facility” are individuals requiring special education who are living in a licensed individual or agency child foster care facility, as defined in Iowa Code section 237.1, or in an unlicensed relative foster care placement. District of residence of an individual living in a foster care facility and financial responsibility for special education and related services are determined pursuant to paragraph 41.907(5)“*a.*”

e. “Children living in a treatment facility” are individuals requiring special education who are living in a facility providing residential treatment as defined in Iowa Code section 125.2. District of residence of an individual living in a treatment facility and financial responsibility for special education and related services are determined pursuant to paragraph 41.907(5)“*b.*”

f. “Children placed by the district court” are pupils requiring special education for whom parental rights have been terminated and who have been placed in a facility or home by a district court. Financial responsibility for special education and related services of individuals placed by the district court is determined pursuant to subrule 41.907(6).

41.51(13) Severely disabled. “Severely disabled” is an adjective applied to individuals with any severe disability including individuals who are profoundly, multiply disabled.

41.51(14) Signature. “Signature” has the meaning given the term in Iowa Code section 4.1(39).

41.51(15) Systematic progress monitoring. “Systematic progress monitoring” means a systematic procedure for collecting and displaying an individual’s performance over time for the purpose of making educational decisions.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.52 to 41.99 Reserved.

DIVISION III
RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

281—41.100(256B,34CFR300) Eligibility for assistance. To be eligible for assistance under Part B of the Act for a fiscal year, the state shall submit a plan that provides assurances to the Secretary that the state has in effect policies and procedures to ensure that the state meets the conditions in rules 281—41.101(256B,34CFR300) to 281—41.176(256B).

281—41.101(256B,34CFR300) Free appropriate public education (FAPE).

41.101(1) General. A free appropriate public education must be available to all children residing in the state for the time period permitted by Iowa Code chapter 256B, including children with disabilities who have been suspended or expelled from school, as provided for in subrule 41.530(4).

41.101(2) FAPE for children beginning at the age of three. The state shall ensure that:

a. The obligation to make FAPE available to each eligible child residing in the state begins no later than the child’s third birthday; and

b. An IEP is in effect for the child by that date.

c. If a child’s third birthday occurs during the summer, the child’s IEP team shall determine the date when services under the IEP will begin.

41.101(3) Children advancing from grade to grade. FAPE shall be available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination that a child described in the first sentence of this subrule is eligible under this chapter must be made on an individual basis by the group responsible within the child’s LEA for making eligibility determinations.

281—41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages.

41.102(1) Exceptions. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

a. Children over the age provided in Iowa Code chapter 256B, unless otherwise provided in this rule.

b. Certain children incarcerated in adult prisons.

(1) General. A child aged 18 to 21 who, in the last educational placement prior to incarceration in an adult correctional facility:

1. Was not actually identified as being a child with a disability under this chapter; and
2. Did not have an IEP under Part B of the Act.

(2) Inapplicability of exception. The exception in subparagraph 41.102(1) “b”(1) does not apply to a child with disabilities, aged 18 to 21, who:

1. Had been identified as a child with a disability under this chapter and had received services in accordance with an IEP, but who left school prior to incarceration; or
 2. Did not have an IEP in the child’s last educational setting, but who had actually been identified as a child with a disability under this chapter.
- c. Graduates with a regular high school diploma.

(1) General. Children with disabilities who have graduated from high school with a regular high school diploma.

(2) Inapplicability of exception. The exception in subparagraph 41.102(1) “c”(1) does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.

(3) Graduation is a change in placement. Graduation from high school with a regular high school diploma constitutes a change in placement requiring written prior notice in accordance with rule 281—41.503(256B,34CFR300).

(4) Rule of construction. As used in subparagraphs 41.102(1) “c”(1) to (3), the term “regular high school diploma” means the standard high school diploma awarded to the preponderance of students in the state that is fully aligned with state standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards described in Section 1111(b)(1)(E) of the ESEA. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

d. Reserved.

e. Eligibility beyond period specified in Iowa Code chapter 256B. An agency may continue the special education and related services of an eligible individual beyond the time period specified in the Iowa Code if the person had an accident or prolonged illness that resulted in delays in the initiation of or in the interruption of that individual’s special education program. The AEA director of special education must request approval from the department, which may be granted for up to the individual’s twenty-fourth birthday.

41.102(2) Documents relating to exceptions. The state must ensure that the information it has provided to the Secretary regarding the exceptions in subrule 41.102(1) is current and accurate.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.103(256B,34CFR300) FAPE—methods and payments.

41.103(1) All means available to meet Part B requirements. The state may use whatever state, local, federal, and private sources of support that are available in the state to meet the requirements of Part B of the Act.

41.103(2) Third-party obligations not eliminated. Nothing in this chapter relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability.

41.103(3) No delay in implementing an IEP. Consistent with rule 281—41.323(256B,34CFR300), there shall be no delay in implementing an eligible individual’s IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.104(256B,34CFR300) Residential placement. If placement in a public or private residential program is necessary to provide special education and related services to an eligible individual, the program, including nonmedical care and room and board, must be at no cost to the parents of the child.

281—41.105(256B,34CFR300) Assistive technology.

41.105(1) General. Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in rules 281—41.5(256B,34CFR300) and 281—41.6(256B,34CFR300), respectively, are made available to a child with a disability if required as a part of the child's:

- a. Special education under rule 281—41.39(256B,34CFR300);
- b. Related services under rule 281—41.34(256B,34CFR300); or
- c. Supplementary aids and services under rule 281—41.42(256B,34CFR300) and paragraph 41.114(2)“b.”

41.105(2) Use of assistive technology devices at home or in other settings. On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive FAPE. [ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.106(256B,34CFR300) Extended school year services.

41.106(1) General. Each public agency must ensure that extended school year services are available as necessary to provide FAPE.

- a. Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with rules 281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300), that the services are necessary for the provision of FAPE to the child.
- b. In implementing the requirements of this rule, a public agency may not limit extended school year services to particular categories of disability or unilaterally limit the type, amount, or duration of those services.

41.106(2) Definition. As used in this rule, the term “extended school year services” means special education and related services that meet the standards of the SEA and are provided to a child with a disability beyond the normal school year of the public agency, in accordance with the child's IEP and at no cost to the parents of the child.

281—41.107(256B,34CFR300) Nonacademic services.

41.107(1) General. Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

41.107(2) Definition. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

281—41.108(256B,34CFR300) Physical education. All public agencies in the state shall comply with the following:

41.108(1) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

41.108(2) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless the child is enrolled full-time in a separate facility or the child needs specially designed physical education, as prescribed in the child's IEP.

41.108(3) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

41.108(4) *Education in separate facilities.* The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this rule.

281—41.109(256B,34CFR300) Full educational opportunity goal (FEOG). Each public agency shall ensure the provision of full educational opportunity to children requiring special education. Each public agency shall have in effect policies and procedures to demonstrate that the agency has established a goal of providing full educational opportunity to all children with disabilities, aged birth to 21, and a detailed timetable for accomplishing that goal.

281—41.110(256B,34CFR300) Program options. Each public agency shall take steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

281—41.111(256B,34CFR300) Child find.

41.111(1) *General.* All children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state and children with disabilities who attend private schools, regardless of the severity of their disability, and who are in need of special education and related services, must be identified, located, and evaluated; and a practical method must be developed and implemented to determine which children are currently receiving needed special education and related services.

41.111(2) *High-quality general education instruction; general education interventions.*

a. As a component of efficient and effective, high-quality general education instruction, it shall be the responsibility of the general education program of each LEA to provide additional support and assistance to all students who may need such additional support and assistance to attain the educational standards of the LEA applicable to all children. Receipt of such additional support and assistance, when considered alone, does not create a suspicion that a child is an eligible individual under this chapter. Activities under this paragraph shall be provided by general education personnel, with occasional or incidental assistance from special education instructional and support personnel.

b. General education interventions involving activities described in rule 281—41.312(256B,34CFR300) are a recognized component of an AEA's child find policy pursuant to the policies set forth in subrule 41.407(1) and the procedures set forth in subrule 41.407(2).

41.111(3) *Other children in child find.* Child find also must include the following:

a. A child who is suspected of being a child with a disability and in need of special education, even though the child is advancing from grade to grade; and

b. Highly mobile children, including migrant children.

41.111(4) *Classification based on disability not required.* Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in 34 CFR Section 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

41.111(5) *Evaluation required when disability is suspected.* At the point when a public agency suspects a child is a child with a disability under this chapter, the public agency must seek parental consent for an initial evaluation of that child, pursuant to subrule 41.300(1).

41.111(6) *Rule of construction—suspicion of a disability.* As a general rule, a public agency suspects a child is a child with a disability when the public agency is aware of facts and circumstances that, when considered as a whole, would cause a reasonably prudent public agency to believe that the child's performance might be explained because the child is an eligible individual under this chapter.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.112(256B,34CFR300) Individualized education programs (IEPs). An IEP, or an IFSP that meets the requirements of Section 636(d) of the Act (for eligible individuals aged birth to three), is developed, reviewed, and revised for each child with a disability in accordance with rules

281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300), except as provided in subparagraph 41.300(2)“d”(2).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices.

41.113(1) *Hearing aids.* Each public agency must ensure that hearing aids worn in school by children who are deaf or hard of hearing are functioning properly.

41.113(2) *External components of surgically implanted medical devices.*

a. Subject to paragraph 41.113(2)“b,” each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.

b. For a child with a surgically implanted medical device who is receiving special education and related services under this chapter, a public agency is not responsible for the postsurgical maintenance, programming, or replacement of the medical device that has been surgically implanted or of an external component of the surgically implanted medical device.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.114(256B,34CFR300) Least restrictive environment (LRE).

41.114(1) *General.* Except as provided in paragraph 41.324(4)“a” regarding children with disabilities in adult prisons, each public agency in the state shall have policies and procedures in place to meet the LRE requirements of this rule and rules 281—41.115(256B,34CFR300) to 281—41.120(256B,34CFR300).

41.114(2) *Public agency assurances.* Each public agency must ensure and maintain adequate documentation that:

a. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

b. Special classes, separate schooling, or other removal of children with disabilities from the general education environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

41.114(3) *State funding mechanism.* A state funding mechanism must not result in placements that violate the requirements of this rule; and the state must not use a funding mechanism by which funds are distributed on the basis of the type of setting in which a child is served or which will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child’s IEP.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.115(256B,34CFR300) Continuum of alternative services and placements.

41.115(1) *General.* Each public agency must ensure that a continuum of alternative services and placements is available to meet the needs of children with disabilities for special education and related services.

41.115(2) *Requirements.* The continuum required in subrule 41.115(1) must meet the following requirements:

a. Include the alternative placements listed in the definition of special education under rule 281—41.39(256B,34CFR300) (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

b. Make provision for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement.

281—41.116(256B,34CFR300) Placements.

41.116(1) *General.* In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure the following:

a. The placement decision shall be made:

(1) By a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) In conformity with the LRE provisions of this chapter, including rules 281—41.114(256B,34CFR300) to 281—41.118(256B,34CFR300);

b. The child's placement shall be:

(1) Determined at least annually;

(2) Based on the child's IEP; and

(3) Located as close as possible to the child's home;

c. Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled;

d. In selecting the LRE, the agency shall consider any potential harmful effect on the child or on the quality of services that he or she needs; and

e. A child with a disability shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

41.116(2) *Special rule: Iowa Code section 282.9.* For eligible individuals subject to Iowa Code section 282.9, any decision of educational setting for such eligible individuals shall be made in accordance with this rule.

41.116(3) *Special rule: disciplinary placements.* If a child is placed in an interim alternative educational setting pursuant to rules 281—41.530(256B,34CFR300) and 281—41.531(256B,34CFR300), that setting shall be determined by the IEP team.

41.116(4) *Special considerations.* The team establishing the eligible individual's placement must answer the following questions.

a. Questions concerning least restrictive environment. When developing an eligible individual's IEP and placement, the team shall consider the following questions, as well as any other factor appropriate under the circumstances, regarding the provision of special education and related services:

(1) What accommodations, modifications and adaptations does the individual require to be successful in a general education environment?

(2) Why is it not possible for these accommodations, modifications and adaptations to be provided within the general education environment?

(3) What supports are needed to assist the teacher and other personnel in providing these accommodations, modifications and adaptations?

(4) How will receipt of special education services and activities in the general education environment impact this individual?

(5) How will provision of special education services and activities in the general education environment impact other students?

b. Additional questions concerning special school placement. When some or all of an eligible individual's special education is to be provided in a special school, the individual's IEP, or an associated or attached document, shall include specific answers to the following additional four questions:

(1) What are the reasons the eligible individual cannot be provided an education program in an integrated school setting?

(2) What supplementary aids and supports are needed to support the eligible individual in the special education program?

(3) Why is it not possible for these aids and supports to be provided in an integrated setting?

(4) What is the continuum of placements and services available for the eligible individual?

41.116(5) *Out-of-state placements.* When special education and related services appropriate to an eligible individual's needs are not available within the state, or when appropriate special education and related services in an adjoining state are nearer than the appropriate special education and related services in Iowa, the director may certify an eligible individual for appropriate special education and related services outside the state in accordance with Iowa Code section 273.3 when it has been determined by the department that the special education and related services meet standards set forth in these rules.

41.116(6) *Department approval for out-of-state placement.* Contracts may be negotiated with out-of-state agencies, in accordance with Iowa Code section 273.3(5), with department approval. The

department uses the following procedures to determine if an out-of-state agency meets the rules of the board:

a. When requested to determine an agency's approval status, the department contacts the appropriate state education agency to determine if that state's rules are comparable to those of the board and whether the specified out-of-state agency meets those rules.

b. If the appropriate state education agency's rules are not comparable, the department will contact the out-of-state agency to ascertain if its special education complies with the rules of the board.

41.116(7) Trial placements. Prior to transfer from a special education program or service, an eligible individual may be provided a trial placement in the general education setting of not more than 45 school days. A trial placement shall be incorporated into this individual's IEP.

281—41.117(256B,34CFR300) Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in rule 281—41.107(256B,34CFR300), each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in nonacademic settings.

281—41.118(256B,34CFR300) Children in public or private institutions. Except as provided in rule 281—41.149(256B,34CFR300) regarding agency responsibility for general supervision of some individuals in adult prisons, the department must ensure that rule 281—41.114(256B,34CFR300) is effectively implemented, including, if necessary, making arrangements with public and private institutions such as a memorandum of agreement or special implementation procedures.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.119(256B,34CFR300) Technical assistance and training activities. The state shall carry out activities to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities for implementing rule 281—41.114(256B,34CFR300) and are provided with technical assistance and training necessary to assist them in this effort. If a public agency is having difficulty in locating an appropriate placement for an eligible individual, the public agency may contact the department for potential assistance.

281—41.120(256B,34CFR300) Monitoring activities. The state shall carry out activities to ensure that rule 281—41.114(256B,34CFR300) is implemented by each public agency. If there is evidence that a public agency makes placements that are inconsistent with rule 281—41.114(256B,34CFR300), the department must review the public agency's justification for its actions and assist in planning and implementing any necessary corrective action. Failure of the public agency to implement any necessary corrective action may result in adverse determinations under rule 281—41.603(256B,34CFR300) or any other available enforcement action.

281—41.121(256B,34CFR300) Procedural safeguards. Each public agency in the state shall meet the requirements of rules 281—41.500(256B,34CFR300) to 281—41.536(256B,34CFR300), and children with disabilities and their parents must be afforded the procedural safeguards identified in those rules.

281—41.122(256B,34CFR300) Evaluation. Children with disabilities must be evaluated in accordance with rules 281—41.300(256B,34CFR300) to 281—41.313(256B,34CFR300), and each AEA shall develop and use procedures to implement those rules.

281—41.123(256B,34CFR300) Confidentiality of personally identifiable information. All public agencies in the state shall comply with rules 281—41.610(256B,34CFR300) to 281—41.626(256B,34CFR300) related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act.

281—41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs. Each public agency shall comply with the state’s policies concerning the transition of infants and toddlers from programs under Part C to programs under Part B of the Act and shall ensure the following regarding such transition:

41.124(1) *Smooth transition.* Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with Section 637(a)(9) of the Act;

41.124(2) *IEP developed.* By the third birthday of a child described in subrule 41.124(1), an IEP has been developed and is being implemented for the child consistent with subrule 41.101(2); and

41.124(3) *Participating agencies.* Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under Section 635(a)(10) of the Act.

281—41.125 to 41.128 Reserved.

281—41.129(256B,34CFR300) Responsibility regarding children in private schools. Each public agency shall meet the private school requirements in rules 281—41.130(256,256B,34CFR300) to 281—41.148(256B,34CFR300).

281—41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities. “Parentally placed private school children with disabilities” means children with disabilities enrolled by their parents in accredited nonpublic, including religious, schools or facilities that meet the definition of elementary school in rule 281—41.13(256B,34CFR300) or secondary school in rule 281—41.36(256B,34CFR300), other than children with disabilities covered under rules 281—41.145(256B,34CFR300) to 281—41.147(256B,34CFR300).

281—41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities.

41.131(1) *General.* Each AEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in accredited nonpublic, including religious, elementary schools and secondary schools located in the school district served by the AEA, in accordance with subrules 41.131(2) to 41.131(5) and rules 281—41.111(256B,34CFR300) and 281—41.201(256B,34CFR300).

41.131(2) *Child find design.* The child find process must be designed to ensure:

a. The equitable participation of parentally placed private school children; and

b. An accurate count of those children.

41.131(3) *Activities.* In carrying out the requirements of this rule, the AEA or, if applicable, the SEA must undertake activities similar to the activities undertaken for the agency’s public school children.

41.131(4) *Cost.* The cost of carrying out the child find requirements in this rule, including individual evaluations, may not be considered in determining whether an AEA has met its obligation under rule 281—41.133(256,256B,34CFR300).

41.131(5) *Completion period.* The child find process must be completed in a time period comparable to that for students attending public schools in the AEA consistent with rule 281—41.301(256B,34CFR300).

41.131(6) *Out-of-state children.* Each AEA in which accredited nonpublic, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this rule, include parentally placed private school children who reside in a state other than the state in which the accredited nonpublic schools that they attend are located.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement.

41.132(1) *General.* To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in accredited nonpublic, including religious, elementary

schools and secondary schools located in the area served by the AEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with rule 281—41.137(256,256B,34CFR300), unless the Secretary has arranged for services to those children under the bypass provisions in 34 CFR Sections 300.190 to 300.198.

41.132(2) *IEP for parentally placed private school children with disabilities.* In accordance with subrule 41.132(1) and rules 281—41.137(256,256B,34CFR300) to 281—41.139(256,256B,34CFR300), as well as Iowa Code section 256.12, an IEP must be developed and implemented for each private school child with a disability who has been designated by the AEA in which the private school is located to receive special education and related services under this chapter.

41.132(3) *Record keeping.* Each AEA must maintain in its records, and provide to the state, the following information related to parentally placed private school children covered under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300):

- a. The number of children evaluated;
- b. The number of children determined to be children with disabilities; and
- c. The number of children served.

281—41.133(256,256B,34CFR300) Expenditures.

41.133(1) *Formula.* To meet the requirement of subrule 41.132(1), each AEA must spend the following on providing special education and related services, including direct services, to parentally placed private school children with disabilities:

a. For children aged 3 to 21, an amount that is the same proportion of the AEA's total subgrant under Section 611(f) of the Act as the number of private school children with disabilities aged 3 to 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the AEA, is to the total number of children with disabilities in its jurisdiction aged 3 to 21.

b. Additional calculation for children aged 3 through 5.

(1) For children aged 3 through 5, an amount that is the same proportion of the AEA's total subgrant under Section 619(g) of the Act as the number of parentally placed private school children with disabilities aged 3 through 5 who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the AEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 5.

(2) As described in subparagraph 41.133(1) "b"(1), children aged 3 through 5 are considered to be parentally placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if and only if they are enrolled in a private school that meets the definition of elementary school in rule 281—41.13(256B,34CFR300).

c. If an AEA has not expended for equitable services all of the funds described in paragraphs 41.133(1) "a" and "b" by the end of the fiscal year for which Congress appropriated the funds, the AEA must obligate the remaining funds for special education and related services, including direct services, to parentally placed private school children with disabilities during a carry-over period of one additional year.

41.133(2) *Calculating proportionate amount.* The state shall calculate each AEA's proportionate share from data provided by each AEA after each AEA has completed the consultation described in rule 281—41.134(256,256B,34CFR300) and the child count described in rule 281—41.131(256,256B,34CFR300) and subrule 41.133(3).

41.133(3) *Annual count of the number of parentally placed private school children with disabilities.*

a. Each AEA must:

(1) After timely and meaningful consultation with representatives of parentally placed private school children with disabilities, consistent with rule 281—41.134(256,256B,34CFR300), determine the number of parentally placed private school children with disabilities attending private schools located in the AEA; and

(2) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

b. The count must be used to determine the amount that the AEA must spend on providing special education and related services to parentally placed private school children with disabilities in the next subsequent fiscal year.

41.133(4) *Supplement, not supplant.* State and local funds may supplement, and in no case supplant, the proportionate amount of federal funds required to be expended for parentally placed private school children with disabilities under this chapter.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.134(256,256B,34CFR300) Consultation. To ensure timely and meaningful consultation, an AEA or, if appropriate, an SEA must consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

41.134(1) *Child find.* The child find process shall determine:

a. How parentally placed private school children suspected of having a disability can participate equitably; and

b. How parents, teachers, and private school officials will be informed of the process.

41.134(2) *Proportionate share of funds.* An explanation that the proportionate share shall be calculated by the state based on data submitted by the AEA, consistent with rule 281—41.133(256,256B,34CFR300).

41.134(3) *Consultation process.* The consultation process among the AEA, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

41.134(4) *Provision of special education and related services.* How, where, and by whom special education and related services funded by Part B of the Act under rules 281—41.130(256,256B,34CFR300) to 281—41.147(256B,34CFR300) will be provided for parentally placed private school children with disabilities, including a discussion of the following:

a. The types of services, including direct services and alternate service delivery mechanisms;

b. How special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school children;

c. How and when decisions regarding paragraphs 41.134(4) “*a*” and “*b*” will be made;

d. That the consultation process concerns only funds under Part B of the Act, and does not concern special education and related services provided under Iowa Code section 256.12. The consultation process may, but is not required to, include discussions of special education and related services provided under Iowa Code section 256.12.

41.134(5) *Written explanation by AEA regarding services.* How, if the AEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the AEA will provide to the private school officials a written explanation of the reasons why the AEA chose not to provide services directly or through a contract.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.135(256,256B,34CFR300) Written affirmation. When timely and meaningful consultation, as required by rule 281—41.134(256,256B,34CFR300), has occurred, the AEA must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the AEA must forward the documentation of the consultation process to the department.

281—41.136(256,256B,34CFR300) Compliance.

41.136(1) *General.* A private school official has the right to submit a complaint to the department that the AEA:

- a. Did not engage in consultation that was meaningful and timely; or
- b. Did not give due consideration to the views of the private school official.

41.136(2) Procedure.

a. If the private school official wishes to submit a complaint, the official must provide to the department the basis of the noncompliance by the AEA with the applicable private school provisions in this chapter; and

b. The AEA must forward the appropriate documentation to the department.

c. If the private school official is dissatisfied with the decision of the department, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph 41.136(2) "a." The department must forward the appropriate documentation to the Secretary. [ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.137(256,256B,34CFR300) Equitable services determined.

41.137(1) Nature and scope of individual right to special education and related services. Each parentally placed private school child with a disability has a right to receive any special education or related services permitted by Iowa Code section 256.12. Funding for and accounting for such services shall be determined by the provisions of Part B of the Act, this chapter, and Iowa Code section 256.12.

41.137(2) Decisions. Decisions about the services that will be provided to parentally placed private school children with disabilities funded by Part B of the Act under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) must be made in accordance with subrules 41.134(4) and 41.137(3). The AEA must make the final decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities and funded by Part B of the Act.

41.137(3) IEP for parentally placed private school children with disabilities. The AEA or LEA must offer to develop an IEP for each child with a disability who is enrolled in a religious or other private school by the child's parents and develop an IEP if one is requested, pursuant to this chapter. An IEP is offered and prepared pursuant to Iowa Code section 256.12. There is no need to prepare a services plan (see rule 281—41.37(34CFR300)) for such a student. A parent of a child with a disability who is voluntarily enrolled in a private school may not reject an IEP and demand a services plan instead. At any IEP team meeting for a parentally placed private school student with a disability, the AEA or LEA must ensure that a representative of the private school attends each meeting. If the representative cannot attend, the AEA or LEA shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

281—41.138(256,256B,34CFR300) Equitable services provided.

41.138(1) General. The services provided to parentally placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally placed private school children with disabilities do not have to meet the special education teacher requirements of rule 281—41.156(256B,34CFR300). Parentally placed private school children with disabilities receive the special education and related services required by Iowa Code section 256.12, although the source of the funding for such education and services may be different than funding for education and services for children with disabilities in public schools.

41.138(2) Services provided in accordance with an IEP. Each parentally placed private school child with a disability who will receive special education and related services pursuant to the Act and Iowa Code section 256.12 must have an IEP developed in accordance with this chapter.

41.138(3) Provision of equitable services. The provision of services pursuant to this rule and rules 281—41.139(256,256B,34CFR300) to 281—41.143(256,256B,34CFR300) must be provided by employees of a public agency or through contract by the public agency with an individual, association, agency, organization, or other entity.

41.138(4) *Secular, neutral and nonideological.* Special education and related services, including materials and equipment, provided to parentally placed private school children with disabilities, including children attending religious schools, must be secular, neutral, and nonideological.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.139(256,256B,34CFR300) Location of services and transportation.

41.139(1) *Services on private school premises.* Services to parentally placed private school children with disabilities may be provided on the premises of private, including religious, schools to the extent consistent with Iowa Code section 256.12.

41.139(2) *Transportation.*

a. General.

(1) If necessary for the child to benefit from or participate in the services provided under this chapter, a parentally placed private school child with a disability must be provided transportation from the child's school or the child's home to a site other than the private school and from the service site to the private school or to the child's home, depending on the timing of the services.

(2) AEAs or LEAs are not required to provide transportation from the child's home to the private school.

b. Cost of transportation. The cost of the transportation described in subparagraph 41.139(2)“a”(1) may be included in calculating whether the AEA has met the requirement of rule 281—41.133(256,256B,34CFR300).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.140(256,256B,34CFR300) Due process complaints and state complaints.

41.140(1) *When due process complaints available.* Pursuant to Iowa Code section 256.12, parents of children with disabilities who are voluntarily placed in accredited nonpublic schools may file a due process complaint as provided in rules 281—41.504(256B,34CFR300) to 281—41.519(256B,34CFR300), except as provided in subrule 41.140(2).

41.140(2) *When due process complaints unavailable.* The procedures in rules 281—41.504(256B,34CFR300) to 281—41.519(256B,34CFR300) may not be used to challenge the particular amount of services funded by Part B that a parentally placed private school child with disabilities receives unless the allegation is made that the child was denied FAPE under Iowa Code section 256.12, but a parent of a child with a disability may file a due process complaint alleging the AEA failed to comply with the child find requirements of rule 281—41.131(256,256B,34CFR300). A private school official may not file a due process complaint under this chapter.

41.140(3) *State complaints.* Any complaint that an SEA or AEA has failed to meet the requirements in rules 281—41.132(256,256B,34CFR300) to 281—41.135(256,256B,34CFR300) and 281—41.137(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) must be filed in accordance with the procedures described in rules 281—41.151(256B,34CFR300) to 281—41.153(256B,34CFR300). A complaint filed by a private school official under subrule 41.136(1) must be filed with the SEA in accordance with the procedures in subrule 41.136(2).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.141(256,256B,34CFR300) Requirement that funds not benefit a private school.

41.141(1) *Funds may not benefit private school.* An AEA may not use funds provided under Section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

41.141(2) *Funds only for special education.* The AEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally placed private school children with disabilities, but not for meeting either of the following needs:

- a.* The needs of a private school; or
- b.* The general needs of the students enrolled in the private school.

281—41.142(256,256B,34CFR300) Use of personnel.

41.142(1) Use of public school personnel. An AEA may use funds available under Sections 611 and 619 of the Act to make public school personnel available in other than public facilities based on the following two criteria:

a. If and to the extent necessary to provide services under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) for parentally placed private school children with disabilities; and

b. If those services are not normally provided by the private school.

41.142(2) Use of private school personnel. An AEA may use funds available under Sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) if the following two conditions are met:

a. The employee performs the services outside of the employee's regular hours of duty; and

b. The employee performs the services under public supervision and control.

281—41.143(256,256B,34CFR300) Separate classes prohibited. An AEA may not use funds available under Section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if the classes are at the same site; and the classes include both children enrolled in public schools and children enrolled in private schools.

281—41.144(256,256B,34CFR300) Property, equipment, and supplies.

41.144(1) General. A public agency must control and administer the funds used to provide special education and related services under rules 281—41.137(256,256B,34CFR300) to 281—41.139(256,256B,34CFR300) and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.

41.144(2) Equipment and supplies on private school premises only while needed. The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

41.144(3) Public agency to supervise placement and use of equipment and supplies. The public agency must ensure that the equipment and supplies placed in a private school are used only for Part B purposes and can be removed from the private school without remodeling the private school facility.

41.144(4) Duty to remove equipment and supplies. The public agency must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

41.144(5) No Part B funds for repair or construction. No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

281—41.145(256B,34CFR300) Applicability of rules 281—41.146(256B,34CFR300) and 281—41.147(256B,34CFR300). Rules 281—41.146(256B,34CFR300) and 281—41.147(256B,34CFR300) apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.146(256B,34CFR300) Responsibility of department. The department must ensure the following for each child with a disability who is placed in or referred to a private school or facility by a public agency.

41.146(1) FAPE. The child is provided special education and related services in conformance with an IEP that meets the requirements of rules 281—41.320(256B,34CFR300) to 281—41.325(256B,34CFR300) and at no cost to the parents.

41.146(2) Meet state standards. The child is provided an education that meets the standards that apply to education provided by the SEA and LEAs, including the requirements of this chapter except for subrule 41.156(3).

41.146(3) *All rights.* The child has all of the rights of a child with a disability who is served by a public agency.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.147(256B,34CFR300) Implementation by department. In implementing rule 281—41.146(256B,34CFR300), the department must monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires; disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them.

281—41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue.

41.148(1) *General.* An LEA or AEA is not required to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with rules 281—41.131(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) and Iowa Code section 256.12.

41.148(2) *Disagreements about FAPE.* Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in rules 281—41.504(256B,34CFR300) to 281—41.520(256B,34CFR300).

41.148(3) *Reimbursement for private school placement.* If the parents of a child with a disability who previously received special education and related services under the authority of a public agency enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or an administrative law judge may require the agency to reimburse the parents for the cost of that enrollment if the court or administrative law judge finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by an administrative law judge or a court even if it does not meet the state standards that apply to education provided by the SEA and LEAs.

41.148(4) *Limitation on reimbursement.* The cost of reimbursement described in subrule 41.148(3) may be reduced or denied in any of the following cases.

a. At the most recent IEP team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense;

b. At least ten business days, including any holidays that occur on a business day, prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph 41.148(4)“*a*”;

c. If, prior to the parents’ removal of the child from the public school, the public agency informed the parents, through the notice requirements described in paragraph 41.503(1)“*a*,” of its intent to evaluate the child, including a statement of the purpose of the evaluation that was appropriate and reasonable, but the parents did not make the child available for the evaluation; or

d. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

41.148(5) *Exceptions.* Notwithstanding the notice requirement in paragraphs 41.148(4)“*a*” and “*b*,” the cost of reimbursement:

a. Must not be reduced or denied for failure to provide the notice if:

(1) The school prevented the parents from providing the notice;

(2) The parents had not received notice, pursuant to rule 281—41.504(256B,34CFR300), of the notice requirement in paragraphs 41.148(4)“*a*” and “*b*”; or

(3) Compliance with paragraphs 41.148(4) “a” and “b” would likely result in physical harm to the child; and

b. May, in the discretion of the court or an administrative law judge, not be reduced or denied for failure to provide this notice if:

(1) The parents are not literate or cannot write in English; or

(2) Compliance with paragraphs 41.148(4) “a” and “b” would likely result in serious emotional harm to the child.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.149(256B,34CFR300) SEA responsibility for general supervision. The state shall exercise general supervision over the implementation of Part B of the Act and this chapter. Part B of the Act does not limit the responsibility of agencies other than educational agencies for providing or paying for some or all of the costs of FAPE to eligible individuals.

281—41.150 Reserved.

281—41.151(256B,34CFR300) Adoption of state complaint procedures.

41.151(1) General. The state maintains written procedures for the following:

a. Resolving any complaint, including a complaint filed by an organization or individual from another state, that meets the requirements of rule 281—41.153(256B,34CFR300) by providing for the filing of a complaint with the department.

b. Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the state procedures under rules 281—41.151(256B,34CFR300) to 281—41.153(256B,34CFR300).

41.151(2) Remedies for denial of appropriate services. In resolving a complaint in which the state has found a failure to provide appropriate services, the state, pursuant to its general supervisory authority under Part B of the Act, shall address the following:

a. The failure to provide appropriate services, including corrective action appropriate to address the needs of the child, such as compensatory services or monetary reimbursement; and

b. Appropriate future provision of services for all children with disabilities.

281—41.152(256B,34CFR300) Minimum state complaint procedures.

41.152(1) Time limit; minimum procedures. The state shall include in its complaint procedures a time limit of 60 days after a complaint is filed under rule 281—41.153(256B,34CFR300) to do the following:

a. Carry out an independent on-site investigation, if the state determines that an investigation is necessary;

b. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

c. Provide the public agency with the opportunity to respond to the complaint, including, at a minimum:

(1) At the discretion of the public agency, a proposal to resolve the complaint; and

(2) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with rules 281—41.506(256B,34CFR300) and 281—41.1002(256B,34CFR300);

d. Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this chapter; and

e. Issue a written decision to the complainant that addresses each allegation in the complaint and contains:

(1) Findings of fact and conclusions; and

(2) The reasons for the state’s final decision.

41.152(2) *Time extension; final decision; implementation.* The state's procedures described in subrule 41.152(1) shall do the following:

a. Permit an extension of the time limit under subrule 41.152(1) only if:

- (1) Exceptional circumstances exist with respect to a particular complaint; or
- (2) The parent or individual or organization and the public agency involved agree to extend the time to engage in mediation pursuant to subparagraph 41.152(1) "c"(2), or to engage in other alternative means of dispute resolution, if available in the state; and

b. Include procedures for effective implementation of the state's final decision, if needed, including:

- (1) Technical assistance activities;
- (2) Negotiations; and
- (3) Corrective actions to achieve compliance.

41.152(3) *Complaints filed under this rule and due process hearings.* If a written complaint is received that is also the subject of a due process hearing under rule 281—41.507(256B,34CFR300) or 281—41.530(256B,34CFR300) to 281—41.532(256B,34CFR300), or that contains multiple issues of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in subrules 41.152(1) and 41.152(2). If an issue raised in a complaint filed under this rule has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the state must inform the complainant to that effect. A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the state.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.153(256B,34CFR300) Filing a complaint.

41.153(1) *Complainant.* An organization or individual may file a signed written complaint under the procedures described in rules 281—41.151(256B,34CFR300) and 281—41.152(256B,34CFR300).

41.153(2) *Contents of complaint.* The complaint must include the following:

a. A statement that a public agency has violated a requirement of Part B of the Act or of this chapter;

b. The facts on which the statement is based;

c. The signature and contact information for the complainant; and

d. If alleging violations with respect to a specific child:

- (1) The name and address of the residence of the child;
- (2) The name of the school the child is attending;
- (3) In the case of a homeless child or youth within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), available contact information for the child, and the name of the school the child is attending;

(4) A description of the nature of the problem of the child, including facts relating to the problem; and

(5) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

41.153(3) *Time limit.* The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with rule 281—41.151(256B,34CFR300).

41.153(4) *Complainant must provide copy of complaint to AEA and LEA.* The party filing the complaint must forward a copy of the complaint to the AEA and LEA or public agency serving the child at the same time the party files the complaint with the state.

41.153(5) *Failure to comply with due process hearing decision, mediation agreement, resolution meeting agreement.* A complainant may allege a public agency has failed to comply with a due process hearing decision, or a mediation agreement, or a resolution meeting agreement. If the complaint is substantiated, the state will grant appropriate relief.

281—41.154(256B,34CFR300) Methods of ensuring services.

41.154(1) *Interagency agreements.* An interagency agreement or other mechanism for interagency coordination shall be developed between each noneducational public agency described in subrule 41.154(2) and the SEA, in order to ensure that all services described in paragraph 41.154(2) “a” that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph “c” of this subrule. The agreement or mechanism must include the following:

a. An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph 41.154(2) “a” to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency described in subrule 41.154(2), including the state Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the LEA (or the state agency responsible for developing the child’s IEP).

b. The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies.

c. Procedures for resolving interagency disputes, including procedures under which LEAs may initiate proceedings, under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

d. Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph 41.154(2) “a.”

41.154(2) *Obligation of noneducational public agencies.**a. General rule.*

(1) If any public agency other than an educational agency is otherwise obligated under federal or state law, or assigned responsibility under state policy or pursuant to subrule 41.154(1), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in rule 281—41.5(256B,34CFR300) relating to assistive technology devices, rule 281—41.6(256B,34CFR300) relating to assistive technology services, rule 281—41.34(256B,34CFR300) relating to related services, rule 281—41.42(256B,34CFR300) relating to supplementary aids and services, and rule 281—41.43(256B,34CFR300) relating to transition services) that are necessary for ensuring FAPE to children with disabilities within the state, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to subrule 41.154(1) or an agreement pursuant to subrule 41.154(3).

(2) A noneducational public agency described in subparagraph 41.154(2) “a”(1) may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

b. Failure to comply with general rule. If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph 41.154(2) “a,” the LEA (or state agency responsible for developing the child’s IEP) must provide or pay for these services to the child in a timely manner. The LEA or state agency is authorized to claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services, and that agency must reimburse the LEA or state agency in accordance with the terms of the interagency agreement or other mechanism described in subrule 41.154(1).

41.154(3) *Special rule.* The requirements of subrule 41.154(1) may be met through the following:

a. State statute or regulation;

b. Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

c. Other appropriate written methods as determined by the chief executive officer of the state or designee of that officer and approved by the Secretary.

41.154(4) *Children with disabilities who are covered by public benefits or insurance.*

a. General. A public agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this chapter, as permitted under the public benefits or insurance program, except as provided in paragraphs 41.154(4) “b” through “d.”

b. Exceptions to ability to use public benefits or insurance. With regard to services required to provide FAPE to an eligible child under this chapter, the public agency:

(1) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of the Act;

(2) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or copay amount incurred in filing a claim for services provided pursuant to this chapter but, pursuant to paragraph 41.154(6) “b,” may pay the cost that the parents otherwise would be required to pay; and

(3) May not use a child’s benefits under a public benefits or insurance program if that use would do any of the following:

1. Decrease available lifetime coverage or any other insured benefit;
2. Result in the family’s paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;
3. Increase premiums or lead to the discontinuation of benefits or insurance; or
4. Risk loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.

c. Consent requirements. Prior to accessing a child’s or parent’s public benefits or insurance for the first time, and after providing notification to the child’s parents consistent with paragraph 41.154(4) “d,” the public agency must obtain written parental consent that:

(1) Meets the requirements of 34 CFR Section 99.30 and rule 281—41.622(256B,34CFR300), which consent must specify the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child), the purpose of the disclosure (e.g., billing for services under this chapter), and the agency to which the disclosure may be made (e.g., the state’s public benefits or insurance program (e.g., Medicaid)); and

(2) Specifies that the parent understands and agrees that the public agency may access the parent’s or child’s public benefits or insurance to pay for services under this chapter.

d. Notification requirements. Prior to accessing a child’s or parent’s public benefits or insurance for the first time, and annually thereafter, the public agency must provide written notification, consistent with subrule 41.503(3), to the child’s parents, that includes:

- (1) A statement of the parental consent provisions in paragraph 41.154(4) “c”;
- (2) A statement of the “no cost” provisions in paragraph 41.154(4) “b”;
- (3) A statement that the parents have the right under 34 CFR Part 99 and this chapter to withdraw their consent to disclosure of their child’s personally identifiable information to the agency responsible for the administration of the state’s public benefits or insurance program (e.g., Medicaid) at any time; and

(4) A statement that the withdrawal of consent or refusal to provide consent under 34 CFR Part 99 and this chapter to disclose personally identifiable information to the agency responsible for the administration of the state’s public benefits or insurance program (e.g., Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

41.154(5) Children with disabilities who are covered by private insurance.

a. General. With regard to services required to provide FAPE to an eligible child under this chapter, a public agency may access the parents’ private insurance proceeds only if the parents provide consent consistent with rule 281—41.9(256B,34CFR300).

b. Obtaining access to private insurance proceeds. Each time the public agency proposes to access the parents’ private insurance proceeds, the agency must:

- (1) Obtain parental consent in accordance with paragraph 41.154(5) “a”; and
- (2) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

41.154(6) Use of Part B funds.

a. Agency unable to obtain consent. If a public agency is unable to obtain parental consent to use the parents’ private insurance, or public benefits or insurance when the parents would incur a cost for a

specified service required under this chapter, to ensure FAPE, the public agency may use its Part B funds to pay for the service.

b. Use of Part B funds to avoid cost to parents. To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the public agency may use its Part B funds to pay the cost that the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or copay amounts).

41.154(7) Proceeds from public benefits or insurance or private insurance. Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of 34 CFR 80.25. If a public agency spends reimbursements from federal funds (e.g., Medicaid) for services under this chapter, those funds will not be considered state or local funds for purposes of the maintenance of effort provisions in rules 281—41.163(256B,34CFR300) and 281—41.203(256B,34CFR300).

41.154(8) Rule of construction. Nothing in this chapter should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public benefits or insurance program by federal statute, regulations or policy under Title XIX or Title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility. The department shall not make any final determination that an AEA or LEA is not eligible for assistance under Part B of the Act without first giving the AEA or LEA reasonable notice and an opportunity for a hearing under 34 CFR 76.401(d).

281—41.156(256B,34CFR300) Personnel qualifications.

41.156(1) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of Part B of the Act and of this chapter are appropriately and adequately prepared, trained, and licensed, including ensuring that those personnel have the content knowledge and skills to serve children with disabilities.

41.156(2) Related services personnel and paraprofessionals. The qualifications under subrule 41.156(1) must include qualifications for related services personnel and paraprofessionals that:

a. Are consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and

b. Ensure that related services personnel who deliver services in their discipline or profession:

(1) Meet the requirements of paragraph 41.156(2)“a”; and

(2) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(3) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation, or written policy, in meeting the requirements of this chapter to be used to assist in the provision of special education and related services under this chapter to children with disabilities.

41.156(3) Qualifications for special education teachers. The qualifications described in subrule 41.156(1) must ensure that each person employed as a public school special education teacher in the state who teaches in an elementary school, middle school, or secondary school meets the following standards:

a. The teacher has obtained full state certification as a special education teacher, including certification obtained through alternative routes to certification, or has passed the state special education teacher licensing examination and holds a license to teach in the state as a special education teacher, except that a teacher teaching in a public charter school must meet the certification or licensing requirements, if any, set forth in the state's public charter school law;

b. The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

c. The teacher holds at least a bachelor's degree.

41.156(4) Policy. In implementing this rule, the state must adopt a policy that includes a requirement that AEAs and LEAs in the state take measurable steps to recruit, hire, train, and retain personnel described in this rule to provide special education and related services under Part B of the Act and this chapter to children with disabilities.

41.156(5) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this chapter, nothing in this chapter shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA, AEA, or LEA employee to meet the requirements of this rule, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this chapter.

41.156(6) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.

41.156(7) Additional rules of construction.

a. A special educator teaching in one or more core academic subjects must be appropriately licensed in each core academic subject or must collaborate with an appropriately licensed teacher.

b. A teacher will be considered to meet the standard in subrule 41.156(3) if that teacher is participating in an alternative route to special education certification program as follows:

(1) The teacher meets the following requirements:

1. Before and while teaching, receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction;

2. Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or in a teacher mentoring program;

3. Assumes functions as a teacher only for a specified period of time not to exceed three years; and

4. Demonstrates satisfactory progress toward full certification as prescribed by the state; and

(2) The state ensures, through its certification and licensure process, that the provisions in subparagraph 41.156(7) "b"(1) are met.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.157 to 41.159 Reserved.

281—41.160(256B,34CFR300) Participation in assessments.

41.160(1) General. The state must ensure that all children with disabilities are included in all general state and districtwide assessment programs, including assessments described under Section 1111 of the ESEA, 20 U.S.C. Section 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.

41.160(2) Accommodation guidelines.

a. The state (or, in the case of a districtwide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations.

b. The state's (or, in the case of a districtwide assessment, the LEA's) guidelines must:

(1) Identify only those accommodations for each assessment that do not invalidate the score; and

(2) Instruct IEP teams to select, for each assessment, only those accommodations that do not invalidate the score.

41.160(3) Alternate assessments.

a. The state (or, in the case of a districtwide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in subrule 41.160(1).

b. For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph 41.160(3) "a" must provide for alternate assessments that:

(1) Are aligned with the state's challenging academic content standards and challenging student academic achievement standards;

(2) If the state has adopted alternate academic achievement standards permitted in 34 CFR 200.1(d), measure the achievement of children with the most significant cognitive disabilities against those standards; and

(3) Except as provided in subparagraph 41.160(3) "b"(2), a state's alternate assessments, if any, must measure the achievement of children with disabilities against the state's grade-level academic achievement standards, consistent with 34 CFR 200.6(a)(2)(ii)(A).

c. Consistent with 34 CFR 200.1(e), a state may not adopt modified academic achievement standards for any students with disabilities under Section 602(3) of the Act.

41.160(4) *Explanation to IEP teams.* The state (or, in the case of a districtwide assessment, an LEA) must provide IEP teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of state or local policies on the student's education resulting from taking an alternate assessment based on alternate academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).

41.160(5) *Inform parents.* The state (or, in the case of a districtwide assessment, an LEA) must ensure that parents of students selected to be assessed based on alternate academic achievement standards are informed that their child's achievement will be measured based on alternate academic achievement standards.

41.160(6) *Reports.* The state (or, in the case of a districtwide assessment, an LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

a. The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.

b. The number of children with disabilities, if any, participating in alternate assessments based on grade-level academic achievement standards.

c. The number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards in school years prior to 2015-2016.

d. The number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.

e. Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards, alternate assessments based on modified academic achievement standards (prior to 2015-2016), and alternate assessments based on alternate academic achievement standards if:

(1) The number of children participating in those assessments is sufficient to yield statistically reliable information; and

(2) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.

41.160(7) *Universal design.* The state (or, in the case of a districtwide assessment, an LEA) must, to the extent possible, use universal design principles in developing and administering any assessments under this rule.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.161 Reserved.

281—41.162(256B,34CFR300) Supplementation of state, local, and other federal funds.

41.162(1) *Expenditures.* Funds paid to a state under this chapter must be expended in accordance with all the provisions of this chapter.

41.162(2) Prohibition against commingling.

- a. Funds paid to a state under this chapter must not be commingled with state funds.
- b. The requirement in paragraph 41.162(2)“a” is satisfied by the use of a separate accounting system that includes an audit trail of the expenditure of funds paid to a state under this chapter. Separate bank accounts are not required. (See 34 CFR 76.702, fiscal control and fund accounting procedures.)

41.162(3) State-level nonsupplanting.

a. Except as provided in rule 281—41.203(256B,34CFR300), funds paid to a state under Part B of the Act must be used to supplement the level of federal, state, and local funds, including funds that are not under the direct control of the SEA or LEAs, expended for special education and related services provided to children with disabilities under Part B of the Act, and in no case to supplant those federal, state, and local funds.

b. If the state provides clear and convincing evidence that all children with disabilities have available to them FAPE, the Secretary may waive, in whole or in part, the requirements of paragraph 41.162(3)“a” if the Secretary concurs with the evidence provided by the state under 34 CFR Section 300.164.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.163(256B,34CFR300) Maintenance of state financial support. The state must not reduce the amount of state financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

281—41.164 Reserved.

281—41.165(256B,34CFR300) Public participation.

41.165(1) General. Prior to the adoption of any policies and procedures needed to comply with Part B of the Act, including any amendments to those policies and procedures, the state must ensure that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

41.165(2) State plan. Before submitting a state plan under this chapter, the state must comply with the public participation requirements in subrule 41.165(1) and those in 20 U.S.C. 1232d(b)(7).

281—41.166(256B,34CFR300) Rule of construction. In complying with rules 281—41.162(256B,34CFR300) and 281—41.163(256B,34CFR300), the state may not use funds paid to it under this chapter to satisfy state-mandated funding obligations to LEAs, including funding based on student attendance or enrollment, or inflation.

281—41.167(256B,34CFR300) State advisory panel. An advisory panel is established and maintained for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state.

281—41.168(256B,34CFR300) Advisory panel membership.

41.168(1) General. The advisory panel must consist of members appointed by the director of education, be representative of the state population and be composed of individuals involved in or concerned with the education of children with disabilities, including:

- a. Parents of children with disabilities aged birth to 26;
- b. Individuals with disabilities;
- c. Teachers;
- d. Representatives of institutions of higher education that prepare special education and related services personnel;
- e. State and local education officials, including officials who carry out activities under Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.;
- f. Administrators of programs for children with disabilities;

- g. Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;
- h. Representatives of private schools and public charter schools;
- i. At least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;
- j. A representative from the state child welfare agency responsible for foster care; and
- k. Representatives from the state juvenile and adult corrections agencies.

41.168(2) *Special rule.* A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities aged birth to 26.

281—41.169(256B,34CFR300) Advisory panel duties. The advisory panel must:

1. Advise the department of unmet needs within the state in the education of children with disabilities;
2. Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
3. Advise the department in developing evaluations and reporting on data to the Secretary under Section 618 of the Act;
4. Advise the department in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the Act;
5. Advise the department in developing and implementing policies relating to the coordination of services for children with disabilities; and
6. Advise the department on eligible individuals with disabilities in adult prisons.

281—41.170(256B,34CFR300) Suspension and expulsion rates.

41.170(1) *General.* The department must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities:

- a. Among LEAs in the state; or
- b. Compared to the rates for nondisabled children within an LEA.

41.170(2) *Review and revision of policies.* If the discrepancies described in subrule 41.170(1) are occurring, the department must review and, if appropriate, revise (or require the affected state agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure that these policies, procedures, and practices comply with the Act.

281—41.171 Reserved.

281—41.172(256B,34CFR300) Access to instructional materials.

41.172(1) *General.* The state:

- a. Adopts the National Instructional Materials Accessibility Standard (NIMAS) published in the Federal Register on July 19, 2006 (71 Fed. Reg. 41084), for the purposes of providing instructional materials to persons who are blind or visually impaired or other persons with print disabilities in a timely manner; and
- b. Establishes the following definition of “timely manner” for purposes of this chapter: Providing instructional materials in accessible formats to children with disabilities in a “timely manner” means delivering those accessible instructional materials at the same time as other children receive instructional materials.

41.172(2) *Public agencies.* All public agencies must comply with rule 281—41.210(256B,34CFR300).

41.172(3) *Assistive technology.* In carrying out this rule, the department, to the maximum extent possible, must work collaboratively with the state agency responsible for assistive technology programs.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.173(256B,34CFR300) Overidentification and disproportionality. Each public agency shall implement policies and procedures developed by the department designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment.

281—41.174(256B,34CFR300) Prohibition on mandatory medication.

41.174(1) General. No public agency personnel are permitted to require parents to obtain a prescription for substances identified under Schedule I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation or services under Part B or this chapter.

41.174(2) Rule of construction. Nothing in subrule 41.174(1) shall be construed to create a federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under rule 281—41.111(256B,34CFR300) related to child find.

281—41.175 Reserved.

281—41.176(256B) Special school provisions.

41.176(1) Providers. Special schools for eligible individuals who require special education outside the general education environment may be maintained by individual LEAs, jointly by two or more LEAs, by the AEA, jointly by two or more AEAs, by the state directly, or by approved private providers.

41.176(2) Department recognition. Department recognition of agencies providing special education and related services shall be of two types:

a. Recognition of nonpublic agencies and state-operated programs providing special education and related services in compliance with these rules.

b. Approval for nonpublic agencies to provide special education and related services and to receive special education funds for the special education and related services contracted for by an LEA or an AEA.

281—41.177(256B) Facilities.

41.177(1) Equivalent to general education. Each agency providing special education and related services shall supply facilities that shall be at least equivalent in quality to general education classrooms in the system, located in buildings housing regularly enrolled individuals of comparable ages, and readily accessible to individuals with disabilities.

41.177(2) Personnel space and assistance. Each agency providing special education shall ensure that special education personnel are provided adequate access to telephone service and clerical assistance and sufficient and appropriate work space regularly available for their use that is readily accessible to individuals with disabilities.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.178(256B) Materials, equipment and assistive technology.

41.178(1) Provision for materials, equipment, and assistive technology. Each LEA shall make provision for special education and related services, facility modifications, assistive technology, necessary equipment and materials, including both durable items and expendable supplies; provided that, where an AEA, pursuant to appropriate arrangements authorized by the Iowa Code, furnishes special education and related services, performance by the AEA shall be accepted in lieu of performance by the LEA.

41.178(2) Acquire and maintain equipment. Each agency providing special education and related services shall have a comprehensive program in operation under which equipment for special education is acquired, inventoried, maintained, calibrated and replaced on a planned and regular basis.

281—41.179 to 41.185 Reserved.

281—41.186(256B,34CFR300) Assistance under other federal programs. Part B of the Act will not be construed to permit a state to reduce medical and other assistance available, or to alter eligibility, under Titles V and XIX of the Social Security Act with respect to the provision of FAPE to children with disabilities in the state.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.187(256B) Research, innovation, and improvement.

41.187(1) Evaluation and improvement. Each agency, in conjunction with other agencies, the department, or both, shall implement activities designed to evaluate and improve special education. These activities shall document the individual performance resulting from the provision of special education.

41.187(2) Research. Each agency shall cooperate in research activities designed to evaluate and improve special education when such activities are sponsored by an LEA, an AEA or the department, or another agency, when approved by the department, to assess and ensure the effectiveness of efforts to educate all children with disabilities.

41.187(3) Support and facilitation. State rules, regulations, and policies under Part B of the Act must support and facilitate AEA, LEA and school-level system improvement designed to enable children with disabilities to meet the challenging state student academic achievement standards.

281—41.188 to 41.199 Reserved.

DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL

281—41.200(256B,34CFR300) Condition of assistance. An AEA or an LEA is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a plan that provides assurances to the state that the LEA meets each of the conditions in rules 281—41.201(256B,34CFR300) to 281—41.213(256B,34CFR300).

41.200(1) Required descriptions, policies and procedures. Each AEA will submit to the department the policies and procedures identified in subrules 41.407(1) and 41.407(2) and other descriptions that may be required by the department for approval. Any modifications to an AEA's descriptions, policies or procedures are to be submitted to the department for approval.

41.200(2) AEA application. Each AEA will submit to the department, 45 calendar days prior to the start of the project year, an application for federal funds under Part B of the Act, implementing federal regulations, and this chapter. An AEA application will receive department approval only when there is an approved AEA comprehensive plan as described in rule 281—72.9(273) on file at the department and the requirements of subrule 41.200(1) have been met. The application, on forms provided by the department, includes the following:

- a. General information.
- b. Utilization of funds.
- c. Assurances.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.201(256B,34CFR300) Consistency with state policies. The AEA or LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the state policies and procedures established under 281—41.101(256B,34CFR300) to 281—41.163(256B,34CFR300) and 281—41.165(256B,34CFR300) to 281—41.187(256B).

281—41.202(256B,34CFR300) Use of amounts.

41.202(1) General. Amounts provided to the AEA or LEA under Part B of the Act must be:

- a. Expended in accordance with the applicable provisions of Part B of the Act and this chapter;
- b. Used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with subrule 41.202(2); and

c. Used to supplement state, local, and other federal funds, and not to supplant those funds.

41.202(2) Excess cost requirement.

a. General.

(1) The excess cost requirement prevents an AEA or LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to subparagraph 41.202(2)“a”(2).

(2) The excess cost requirement does not prevent an AEA or LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability aged 3 to 5 or 18 to 20 if no local or state funds are available for nondisabled children of these ages. However, the AEA or LEA must comply with the nonsupplanting and other requirements of Part B of the Act and of this chapter in providing the education and services for these children.

b. Meeting excess cost requirement.

(1) An AEA or LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used.

(2) The amount described in subparagraph 41.202(2)“b”(1) is determined in accordance with the definition of excess costs in rule 281—41.16(256B,34CFR300). That amount may not include capital outlay or debt service.

c. Joint establishment of eligibility. If two or more AEAs or LEAs jointly establish eligibility in accordance with rule 281—41.223(256B,34CFR300), the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in rule 281—41.16(256B,34CFR300) in those agencies for elementary or secondary school students, as the case may be.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.203(256B,34CFR300) Maintenance of effort.

41.203(1) Eligibility standard.

a. For purposes of establishing the LEA’s eligibility for an award for a fiscal year, the SEA must determine that the LEA budgets, for the education of children with disabilities, at least the same amount, from at least one of the following sources, as the LEA spent for that purpose from the same source for the most recent fiscal year for which information is available:

- (1) Local funds only;
- (2) The combination of state and local funds;
- (3) Local funds only on a per capita basis; or
- (4) The combination of state and local funds on a per capita basis.

b. When determining the amount of funds that the LEA must budget to meet the requirement in paragraph 41.203(1)“a,” the LEA may take into consideration, to the extent the information is available, the exceptions and adjustment provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300) that the LEA:

- (1) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the LEA is budgeting; and
- (2) Reasonably expects to take in the fiscal year for which the LEA is budgeting.

c. Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraph 41.203(1)“a.”

41.203(2) Compliance standard.

a. Except as provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300), funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

b. An LEA meets this standard if it does not reduce the level of expenditures for the education of children with disabilities made by the LEA from at least one of the following sources below the level

of those expenditures from the same source for the preceding fiscal year, except as provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300):

- (1) Local funds only;
- (2) The combination of state and local funds;
- (3) Local funds only on a per capita basis; or
- (4) The combination of state and local funds on a per capita basis.

c. Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraphs 41.203(2)“a” and 41.203(2)“b.”

41.203(3) Subsequent years.

a. If, in the fiscal year beginning on July 1, 2013, or July 1, 2014, an LEA fails to meet the requirements of 34 CFR 300.203 and rule 281—41.203(256B,34CFR300) in effect at that time, the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the LEA’s reduced level of expenditures.

b. If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of subparagraph 41.203(2)“b”(1) or 41.203(2)“b”(3) and the LEA is relying on local funds only, or local funds only on a per capita basis, to meet the requirements of subrule 41.203(1) or 41.203(2), the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required under subparagraph 41.203(2)“b”(1) or 41.203(2)“b”(3) in the absence of that failure, not the LEA’s reduced level of expenditures.

c. If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of subparagraph 41.203(2)“b”(2) or 41.203(2)“b”(4) and the LEA is relying on the combination of state and local funds, or the combination of state and local funds on a per capita basis, to meet the requirements of subrule 41.203(1) or 41.203(2), the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required under subparagraph 41.203(2)“b”(2) or 41.203(2)“b”(4) in the absence of that failure, not the LEA’s reduced level of expenditures.

41.203(4) Consequence of failure to maintain effort. If an LEA fails to maintain its level of expenditures for the education of children with disabilities in accordance with subrule 41.203(2), the SEA is liable in a recovery action under Section 452 of the General Education Provisions Act (20 U.S.C. 1234a) to return to the U.S. Department of Education, using nonfederal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures in accordance with subrule 41.203(2) in that fiscal year, or the amount of the LEA’s Part B subgrant in that fiscal year, whichever is lower.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.204(256B,34CFR300) Exception to maintenance of effort. Notwithstanding the restriction in subrule 41.203(2), an AEA or LEA may reduce the level of expenditures by the AEA or LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

41.204(1) Departure of personnel. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

41.204(2) Decrease in enrollment. A decrease in the enrollment of children with disabilities.

41.204(3) Termination of obligation to provide an “exceptionally costly” program to a particular child. The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child:

- a. Has left the jurisdiction of the agency;
- b. Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
- c. No longer needs the program of special education.

41.204(4) *Termination of costly expenditures for long-term purchases.* The termination of costly expenditures for long-term purchases, such as the acquisition of equipment.

41.204(5) *High-cost fund.* The assumption of cost by the high-cost fund operated by the state under this chapter.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years.

41.205(1) *Amounts in excess.* Notwithstanding paragraph 41.202(1) “b” and subrules 41.202(2) and 41.203(2), and except as provided in subrule 41.205(4) and 34 CFR 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under rule 281—41.705(256B,34CFR300) exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by subrule 41.203(2) by not more than 50 percent of the amount of that excess.

41.205(2) *Use of amounts to carry out activities under ESEA.* If an LEA exercises the authority under subrule 41.205(1), the LEA must use an amount of local funds equal to the reduction in expenditures under subrule 41.205(1) to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.

41.205(3) *State prohibition.* Notwithstanding subrule 41.205(1), if the SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of Section 613(a) of the Act and of this chapter or the SEA has taken action against the LEA under Section 616 of the Act and rules 281—41.600(256B,34CFR300) to 281—41.609(256B,34CFR300), the SEA must prohibit the LEA from reducing the level of expenditures under subrule 41.205(1) for that fiscal year.

41.205(4) *Special rule.* The amount of funds expended by an LEA for early intervening services under rule 281—41.226(256B,34CFR300) shall count toward the maximum amount of expenditures that the LEA may reduce under subrule 41.205(1).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA.

41.206(1) *General.* Notwithstanding the provisions of rules 281—41.202(256B,34CFR300) and 281—41.203(256B,34CFR300) or any other provision of Part B of the Act, an LEA may use funds received under Part B of the Act for any fiscal year to carry out a schoolwide program under Section 1114 of the ESEA, except that the amount used in any schoolwide program may not exceed the amount received by the LEA under Part B of the Act for that fiscal year; divided by the number of children with disabilities in the jurisdiction of the LEA; and multiplied by the number of children with disabilities participating in the schoolwide program.

41.206(2) *Funding conditions.* The funds described in subrule 41.206(1) are subject to the following conditions:

a. The funds must be considered as federal Part B funds for purposes of the calculations required by paragraphs 41.202(1) “b” and “c.”

b. The funds may be used without regard to the requirements of paragraph 41.202(1) “a.”

41.206(3) *Meeting other Part B requirements.* Except as provided in subrule 41.206(2), all other requirements of Part B of the Act must be met by an LEA using Part B funds in accordance with subrule 41.206(1), including ensuring that children with disabilities in schoolwide program schools:

a. Receive services in accordance with a properly developed IEP; and

b. Are afforded all of the rights and services guaranteed to children with disabilities under the Act.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.207(256B,34CFR300) Personnel development. Each public agency must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of rule 281—41.156(256B,34CFR300) related to personnel qualifications and Section 2102(b) of the ESEA.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.208(256B,34CFR300) Permissive use of funds.

41.208(1) Uses. Notwithstanding rule 281—41.202(256B,34CFR300) and subrules 41.203(2) and 41.162(2), funds provided to an LEA under Part B of the Act may be used for the following activities:

a. Services and aids that also benefit nondisabled children. For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services. This provision may not be construed to apply to rules 281—41.172(256B,34CFR300) and 281—41.210(256B,34CFR300).

b. Early intervening services. To develop and implement coordinated, early intervening educational services in accordance with rule 281—41.226(256B,34CFR300). Such development and implementation may be required by the SEA under subrule 41.646(2).

c. High-cost special education and related services. To establish and implement cost- or risk-sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for high-cost special education and related services.

41.208(2) Administrative case management. An LEA may use funds received under Part B of the Act to purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities, that is needed for the implementation of those case management activities.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.209(256B,34CFR300) Treatment of charter schools and their students.

41.209(1) Rights of children with disabilities. Children with disabilities who attend public charter schools and their parents retain all rights under this chapter.

41.209(2) Charter schools that are public schools of the LEA.

a. General. In carrying out Part B of the Act and these rules with respect to charter schools that are public schools of the LEA, the LEA must:

(1) Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and

(2) Provide funds under Part B of the Act to those charter schools:

1. On the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and

2. At the same time as the LEA distributes other federal funds to the LEA's other public schools, consistent with the state's charter school law.

b. Relationship to rule 281—41.705(256B,34CFR300). If the public charter school is a school of an LEA that receives funding under rule 281—41.705(256B,34CFR300) and includes other public schools:

(1) The LEA is responsible for ensuring that the requirements of this chapter are met, unless state law assigns that responsibility to some other entity; and

(2) The LEA must meet the requirements of paragraph 41.209(2) "a."

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.210(256B,34CFR300) Purchase of instructional materials.

41.210(1) General. An AEA, an LEA, or any other public agency, when purchasing print instructional materials, must acquire those instructional materials for children who are blind or visually impaired or for other persons with print disabilities in a manner consistent with subrule 41.210(3) and ensure delivery of those materials in a timely manner to those children.

41.210(2) Rights and responsibilities of AEA or LEA. Nothing in this rule relieves the LEA or AEA or any other public agency of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but who are not included under the definition of persons who are blind or visually impaired or other persons with print disabilities in paragraph 41.210(4) "a" or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner, as defined in paragraph 41.172(1) "b."

41.210(3) *Preparation and delivery of files.* Because the state chooses to coordinate with the NIMAC, an AEA, an LEA, or any other public agency must:

a. As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enter into a written contract with the publisher of the print instructional materials to:

(1) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(2) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

b. Provide instructional materials to persons who are blind or visually impaired or other persons with print disabilities in a timely manner.

41.210(4) *Definitions.* The following definitions apply to this rule and rule 281—41.172(256B,34CFR300), and apply to each state and LEA, regardless of whether the state or LEA chooses to coordinate with the NIMAC:

a. “Persons who are blind or visually impaired or other persons with print disabilities” means children served under this chapter who may qualify to receive books and other publications produced in specialized formats in accordance with 2 U.S.C. 135a and 36 CFR 701.6. Persons who may receive material in specialized formats include persons who are blind, who have visual disabilities, who have certain physical disabilities, or who have reading disabilities resulting from organic dysfunction as those terms are defined in 36 CFR 701.6(b)(1) and who have obtained certification from a “competent authority” as defined in 36 CFR 701.6(b)(2).

b. “National Instructional Materials Access Center” or “NIMAC” means the center established pursuant to Section 674(e) of the Act.

c. “National Instructional Materials Accessibility Standard” or “NIMAS” has the meaning given the term in Section 674(e)(3)(B) of the Act.

d. “Print instructional materials” has the meaning given the term in Section 674(e)(3)(C) of the Act.

e. “Specialized formats” has the meaning given the term in Section 674(e)(3)(D) of the Act.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.211(256B,34CFR300) Information for department. Each public agency will provide the department with information necessary to enable the department to carry out its duties under Part B of the Act and this chapter, including, with respect to 34 CFR Section 300.157, information relating to the performance of children with disabilities participating in programs carried out under Part B of the Act. This information, including such quantitative and qualitative data as the department may demand, is to be submitted in a manner and at a time determined by the department. Failure to submit timely and accurate information may be considered by the department in making the determinations under rule 281—41.603(256B,34CFR300) or in taking any other action to enforce Part B of the Act or this chapter.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.212(256B,34CFR300) Public information. Each public agency must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part B of the Act.

281—41.213(256B,34CFR300) Records regarding migratory children with disabilities. Each AEA or LEA must cooperate in the Secretary’s efforts under Section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the states, health and educational information regarding those children.

281—41.214 to 41.219 Reserved.

281—41.220(256B,34CFR300) Exception for prior local plans.

41.220(1) General. If an AEA or LEA or a state agency described in rule 281—41.228(256B,34CFR300) has on file with the SEA policies and procedures that demonstrate that the AEA or LEA or state agency meets any requirement of rule 281—41.200(256B,34CFR300), including any policies and procedures filed under Part B of the Act as in effect before December 3, 2004, the SEA must consider the AEA or LEA or state agency to have met that requirement for purposes of receiving assistance under Part B of the Act.

41.220(2) Modification made by an AEA or LEA or state agency. Subject to subrule 41.220(3), policies and procedures submitted by an LEA or a state agency remain in effect until the AEA or LEA or state agency submits to the SEA the modifications that the AEA or LEA or state agency determines are necessary.

41.220(3) Modifications required by the SEA. The SEA may require an AEA or LEA or a state agency to modify its policies and procedures, but only to the extent necessary to ensure the LEA's or state agency's compliance with Part B of the Act or state law, if:

a. After December 3, 2004, the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the applicable provisions of the Act, or the regulations developed to carry out the Act, are amended;

b. There is a new interpretation of an applicable provision of the Act by federal or state courts; or

c. There is an official finding of noncompliance with federal or state law or regulations.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility. If the state determines that an AEA or LEA or state agency is not eligible under Part B of the Act, then the state must notify the AEA or LEA or state agency of that determination and provide the AEA or LEA or state agency with reasonable notice and an opportunity for a hearing. This hearing shall not be considered a contested case under Iowa Code chapter 17A.

281—41.222(256B,34CFR300) AEA or LEA and state agency compliance.

41.222(1) General. If the state, after reasonable notice and an opportunity for a hearing, finds that an AEA or LEA or state agency that has been determined to be eligible under this chapter is failing to comply with any requirement described in rules 281—41.201(256B,34CFR300) to 281—41.213(256B,34CFR300), the state must reduce or must not provide any further payments to the AEA or LEA or state agency until the state is satisfied that the AEA or LEA or state agency is complying with that requirement.

41.222(2) Notice requirement. Any state agency or AEA or LEA in receipt of a notice described in subrule 41.222(1), by means of public notice, must take the measures necessary to bring the pendency of an action pursuant to this rule to the attention of the public within the jurisdiction of the agency.

41.222(3) Consideration. In carrying out its responsibilities under this rule, the state must consider any decision resulting from a hearing held under rules 281—41.511(256B,34CFR300) to 281—41.533(256B,34CFR300) that is adverse to the AEA or LEA or state agency involved in the decision.

281—41.223(256B,34CFR300) Joint establishment of eligibility.

41.223(1) General. The state may require an AEA or LEA to establish its eligibility jointly with another AEA or LEA if the state determines that the AEA or LEA will be ineligible because the agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

41.223(2) Reserved.

41.223(3) Amount of payments. If the state requires the joint establishment of eligibility under subrule 41.223(1), the total amount of funds made available to the affected AEAs or LEAs must be equal to the sum of the payments that each AEA or LEA would have received under rule 281—41.705(256B,34CFR300) if the agencies were eligible for those payments.

281—41.224(256B,34CFR300) Requirements for jointly establishing eligibility.

41.224(1) *Requirements for AEA or LEAs in general.* AEA or LEAs that establish joint eligibility under this rule must:

a. Adopt policies and procedures that are consistent with the state's policies and procedures under rules 281—41.101(256B,34CFR300) to 281—41.163(256B,34CFR300) and 281—41.165(256B,34CFR300) to 281—41.187(256B); and

b. Be jointly responsible for implementing programs that receive assistance under Part B of the Act.

41.224(2) *Requirements for educational service agencies in general.* If an educational service agency is required by state law to carry out programs under Part B of the Act, the joint responsibilities given to AEA or LEAs under Part B of the Act:

a. Do not apply to the administration and disbursement of any payments received by that educational service agency; and

b. Must be carried out only by that educational service agency.

41.224(3) *Additional requirement.* Notwithstanding any other provision of rule 281—41.223(256B,34CFR300) and this rule, an educational service agency must provide for the education of children with disabilities in the least restrictive environment, as required by this chapter.

281—41.225 Reserved.

281—41.226(256B,34CFR300) Early intervening services.

41.226(1) *General.* An AEA or LEA may use no more than 15 percent of the amount the AEA or LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the AEA or LEA pursuant to rule 281—41.205(256B,34CFR300), if any, in combination with other amounts, which may include amounts other than education funds, to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12, with a particular emphasis on students in kindergarten through grade 3, who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.

41.226(2) *Activities.* In implementing coordinated, early intervening services under this rule, an AEA or LEA may carry out activities that include:

a. Professional development, which may be provided by other entities, for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction and, where appropriate, instruction on the use of adaptive and instructional software; and

b. Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

41.226(3) *Construction.* Nothing in this rule shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability.

41.226(4) *Reporting: in general.* Each AEA or LEA that develops and maintains coordinated, early intervening services under this rule must annually report to the SEA on:

a. The number of children served under this rule who received early intervening services; and

b. The number of children served under this rule who received early intervening services and subsequently receive special education and related services under Part B of the Act during the preceding two-year period.

41.226(5) *Reporting: disproportionality.* If an LEA is required to reserve the maximum amount available under this rule for early intervening services because of a determination of significant disproportionality under rule 281—41.646(256B,34CFR300), that LEA must make additional reports on the use of funds under this rule and rule 281—41.646(256B,34CFR300), as required by the SEA.

41.226(6) *Coordination with ESEA.* Funds made available to carry out this rule may be used to carry out coordinated, early intervening services aligned with activities funded by and carried out under the

ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this rule.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.227 Reserved.

281—41.228(256B,34CFR300) State agency eligibility. Any state agency that desires to receive a subgrant for any fiscal year under rule 281—41.705(256B,34CFR300) is to meet the provisions of 34 CFR Section 300.228.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.229(256B,34CFR300) Disciplinary information.

41.229(1) Requirement of transmittal of disciplinary records. Pursuant to Iowa Code section 279.9A, the state requires that a public agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of children without disabilities.

41.229(2) Contents of transmittal. The transmittal shall include an accurate record of any suspension or expulsion actions taken and the basis for those actions taken. It may include any other information that is relevant to the safety of the child and other individuals involved with the child, to the extent that information is transmitted for children without disabilities.

41.229(3) Additional contents of transmittal. If the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

41.229(4) When transmittal must occur. Pursuant to Iowa Code section 279.9A, a transmittal of records under this rule shall occur if requested by officials of the school to which the student seeks to transfer or has transferred.

41.229(5) Additional state law requirement. Pursuant to Iowa Code section 279.9A, this rule applies also to accredited nonpublic schools, as well as AEAs.

281—41.230(256B,34CFR300) SEA flexibility. The department reserves to itself the flexibility provided by 34 CFR Section 300.230.

281—41.231 to 41.299 Reserved.

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS

281—41.300(256B,34CFR300) Parental consent and participation.

41.300(1) Parental consent for initial evaluation.

a. General.

(1) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under this chapter must, after providing notice consistent with rules 281—41.503(256B,34CFR300) and 281—41.504(256B,34CFR300), obtain informed consent, consistent with rule 281—41.9(256B,34CFR300), from the parent of the child before conducting the evaluation.

(2) Parental consent for an initial evaluation must not be construed as consent for initial provision of special education and related services.

(3) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

b. Special rule: initial evaluation for a child who is a ward of the state and not residing with a parent. For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

(1) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;

(2) The rights of the parents of the child have been terminated in accordance with state law; or

(3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

c. Parental refusal to provide consent for initial evaluation.

(1) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph 41.300(1) “a,” or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in this chapter, including the mediation procedures under rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300) to 281—41.516(256B,34CFR300), if appropriate, except to the extent inconsistent with state law relating to such parental consent.

(2) The public agency does not violate its obligation under rules 281—41.111(256B,34CFR300) and 281—41.301(256B,34CFR300) to 281—41.311(256B,34CFR300) if it declines to pursue the evaluation under subparagraph 41.300(1) “c”(1).

41.300(2) Parental consent for services.

a. A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

b. The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

c. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency:

(1) May not use the procedural safeguards in this chapter, including the mediation procedures rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300) through 281—41.516(256B,34CFR300) in order to obtain agreement or a ruling that the services may be provided to the child;

(2) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and

(3) Is not required to convene an IEP team meeting or develop an IEP under rules 281—41.320(256B,34CFR300) and 281—41.324(256B,34CFR300) for the child.

d. If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency:

(1) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with rule 281—41.503(256B,34CFR300) before ceasing the provision of special education and related services;

(2) May not use the procedural safeguards in this chapter, including the mediation procedures rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300) through 281—41.516(256B,34CFR300) in order to obtain agreement or a ruling that the services may be provided to the child;

(3) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and

(4) Is not required to convene an IEP team meeting or develop an IEP under rules 281—41.320(256B,34CFR300) and 281—41.324(256B,34CFR300) for the child for further provision of special education and related services.

41.300(3) Parental consent for reevaluations.

a. General. Subject to paragraph 41.300(3) “b”:

(1) Each public agency must obtain informed parental consent, in accordance with paragraph 41.300(1)“a,” prior to conducting any reevaluation of a child with a disability.

(2) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph 41.300(1)“c.”

(3) The public agency does not violate its obligation under rules 281—41.111(256B,34CFR300) and 281—41.301(256B,34CFR300) to 281—41.311(256B,34CFR300) if it declines to pursue the evaluation or reevaluation.

b. Exception. The informed parental consent described in paragraph 41.300(3)“a” need not be obtained if the public agency can demonstrate that:

- (1) It made reasonable efforts to obtain such consent; and
- (2) The child’s parent has failed to respond.

41.300(4) Other consent requirements.

a. When parental consent not required. Parental consent is not required before:

- (1) A review of existing data as part of an evaluation or a reevaluation; or
- (2) Administration of a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

b. Additional consent requirements. In addition to the parental consent requirements described in subrules 41.300(1) through 41.300(3), the state may require parental consent for other services and activities under Part B of the Act and of this chapter if it ensures that each public agency in the state establishes and implements effective procedures to ensure that a parent’s refusal to consent does not result in a failure to provide the child with FAPE.

c. Limitation on public agency’s use of failure to give consent. A public agency may not use a parent’s refusal to consent to one service or activity under subrules 41.300(1) through 41.300(3) or paragraph 41.300(4)“b” to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this chapter.

d. Children who are home schooled or placed by their parents in private schools.

(1) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures described in paragraphs 41.300(1)“c” and 41.300(3)“a”; and

(2) The public agency is not required to consider the child as eligible for services under rules 281—41.132(256B,34CFR300) to 281—41.144(256B,34CFR300).

e. Documenting reasonable efforts. To meet the reasonable efforts requirement in subparagraph 41.300(1)“a”(3), subparagraph 41.300(1)“b”(1), paragraph 41.300(2)“b,” and subparagraph 41.300(3)“b”(1), the public agency must document its attempts to obtain parental consent using the procedures in subrule 41.322(4).

41.300(5) Parent participation. The identification process is to include interactions with the individual, the individual’s parents, school personnel, and others having specific responsibilities for or knowledge of the individual. AEA and LEA personnel will seek active parent participation throughout the process, directly communicate with parents, and encourage parents to participate at all decision points.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.301(256B,34CFR300) Full and individual initial evaluations.

41.301(1) General. Each public agency must conduct a full and individual initial evaluation, in accordance with rules 281—41.304(256B,34CFR300) to 281—41.306(256B,34CFR300), before the initial provision of special education and related services to a child with a disability under this chapter.

41.301(2) Request for initial evaluation. Consistent with the consent requirements in rule 281—41.300(256B,34CFR300), either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

41.301(3) Procedures for initial evaluation. The initial evaluation:

- a.* Must be conducted within 60 calendar days of receiving parental consent for the evaluation;

b. Must consist of procedures:

- (1) To determine if the child is a child with a disability under this chapter; and
- (2) To determine the educational needs of the child.

41.301(4) Exception. The time frame described in paragraph 41.301(3)“*a*” does not apply to a public agency if:

a. The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

b. A child enrolls in a school of another public agency after the relevant time frame in paragraph 41.301(3)“*a*” has begun, and prior to a determination by the child’s previous public agency as to whether the child is a child with a disability under this chapter.

41.301(5) Applicability of exception in paragraph 41.301(4)“*b*.” The exception in paragraph 41.301(4)“*b*” applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation and the parent and the subsequent public agency agree to a specific time when the evaluation will be completed.

41.301(6) Content of full and individual initial evaluation. The purpose of the evaluation is to determine the educational interventions that are required to resolve the presenting problem, behaviors of concern, or suspected disability, including whether the educational interventions are special education. An evaluation shall include:

a. An objective definition of the presenting problem, behaviors of concern, or suspected disability.

b. Analysis of existing information about the individual, as described in paragraph 41.305(1)“*a*.”

c. Identification of the individual’s strengths or areas of competence relevant to the presenting problem, behaviors of concern, or suspected disability.

d. Collection of additional information needed to design interventions intended to resolve the presenting problem, behaviors of concern, or suspected disability, including, if appropriate, assessment or evaluation of health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, adaptive behavior and motor abilities.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.302(256B,34CFR300) Screening for instructional purposes is not evaluation. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

281—41.303(256B,34CFR300) Reevaluations.

41.303(1) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with rules 281—41.304(256B,34CFR300) to 281—41.311(256B,34CFR300):

a. If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

b. If the child’s parent or teacher requests a reevaluation.

41.303(2) Limitation. A reevaluation conducted under subrule 41.303(1):

a. May occur not more than once a year, unless the parent and the public agency agree otherwise; and

b. Must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary.

281—41.304(256B,34CFR300) Evaluation procedures.

41.304(1) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with rule 281—41.503(256B,34CFR300), that describes any evaluation procedures the agency proposes to conduct.

41.304(2) Conduct of evaluation. In conducting the evaluation, the public agency must:

a. Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining:

(1) Whether the child is a child with a disability under this chapter; and
 (2) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

b. Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

c. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

41.304(3) *Other evaluation procedures.* Each public agency must ensure that:

a. Assessments and other evaluation materials used to assess a child under this chapter:

(1) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 (2) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(3) Are used for the purposes for which the assessments or measures are valid and reliable;

(4) Are administered by trained and knowledgeable personnel; and

(5) Are administered in accordance with any instructions provided by the producer of the assessments.

b. Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

c. Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

d. The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

e. Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with paragraph 41.301(4) "b" and subrule 41.301(5), to ensure prompt completion of full evaluations.

f. The evaluation of each child with a disability under rules 281—41.304(256B,34CFR300) to 281—41.306(256B,34CFR300) is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

g. Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations.

41.305(1) *Review of existing evaluation data.* As part of an initial evaluation, if appropriate, and as part of any reevaluation under this chapter, the IEP team and other qualified professionals, as appropriate, must:

a. Review existing evaluation data on the child, including:

- (1) Evaluations and information provided by the parents of the child;
- (2) Current classroom-based, local, or state assessments, and classroom-based observations; and
- (3) Observations by teachers and related services providers; and

b. On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:

(1) Whether the child is a child with a disability, as defined in this chapter, and the educational needs of the child or, in the case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;

(2) The present levels of academic achievement and related developmental needs of the child;

(3) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(4) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

41.305(2) *Conduct of review.* The group described in subrule 41.305(1) may conduct its review without a meeting.

41.305(3) *Source of data.* The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under subrule 41.305(1).

41.305(4) *Requirements if additional data are not needed.*

a. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability or to determine the child's educational needs, the public agency must notify the child's parents of:

(1) The determination and the reasons for the determination; and

(2) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

b. The public agency is not required to conduct the assessment described in subparagraph 41.305(4) "a"(2) unless requested to do so by the child's parents.

41.305(5) *Evaluations before change in eligibility.*

a. Except as provided in paragraph 41.305(5) "b," a public agency must evaluate a child with a disability in accordance with these rules before determining that the child is no longer a child with a disability.

b. The evaluation described in paragraph 41.305(5) "a" is not required before the termination of a child's eligibility under this chapter due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under state law.

c. For a child whose eligibility terminates under circumstances described in paragraph 41.305(5) "b," a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

41.305(6) *At no cost to parent.* Evaluations or reevaluations under this chapter, including any outside consultations or evaluations, shall be at no cost to the parent. AEA's or LEA's may access a parent's private insurance or public benefits or insurance, however, provided that a parent gives informed consent consistent with rule 281—41.9(256B,34CFR300) and subrules 41.154(4) and 41.154(5).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.306(256B,34CFR300) Determination of eligibility.

41.306(1) *General.* Upon completion of the administration of assessments and other evaluation measures:

a. A group of qualified professionals and the parent of the child determine whether the child is a child with a disability, as defined in this chapter, in accordance with subrule 41.306(3) and the educational needs of the child; and

b. The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

41.306(2) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this chapter:

a. If the determinant factor for that determination is:

(1) Lack of appropriate instruction in reading, including the essential components of reading instruction, as defined in Section 1208(3) of the ESEA, as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act (December 9, 2015);

(2) Lack of appropriate instruction in math; or

(3) Limited English proficiency; and

b. If the child does not otherwise meet the eligibility criteria under this chapter.

41.306(3) Procedures for determining eligibility and educational need.

a. In interpreting evaluation data for the purpose of determining if a child is a child with a disability under this chapter, and the educational needs of the child, each public agency must:

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and

(2) Ensure that information obtained from all of these sources is documented and carefully considered.

b. If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with these rules.

c. All determinations of eligibility must be based on the individual's disability (progress and discrepancy) and need for special education.

41.306(4) Director's certification. If a child is determined to be an eligible individual pursuant to these rules, the AEA director of special education will certify the individual's entitlement for special education. A confidential record, subject to audit by the department, registering the name and required special education and related services of each eligible individual will be maintained by the AEA, and provision will be made for its periodic revision.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.307(256B,34CFR300) Specific learning disabilities.

41.307(1) General. The state adopts, consistent with rule 281—41.309(256B,34CFR300), criteria for determining whether a child is an eligible individual on the basis of a specific learning disability as defined in subrule 41.50(10). In addition, the criteria adopted by the state:

a. Require the use of a process based on the child's response to scientific, research-based intervention or the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in subrule 41.50(10); and

b. Prohibit the use of a severe discrepancy between intellectual ability and achievement for determining whether a child is an eligible individual on the basis of a specific learning disability.

41.307(2) Consistency with state criteria. A public agency must use the state criteria adopted pursuant to subrule 41.307(1) in determining whether a child is an eligible individual on the basis of a specific learning disability.

41.307(3) Rule of construction: "Labelling." Nothing in this rule or rules 281—41.308(256B,34CFR300) to 281—41.311(256B,34CFR300) is to be construed as requiring children evaluated under these rules to be classified as having a specific learning disability, as long as the child is regarded as a child with a disability or an eligible individual under this chapter.

41.307(4) Rule of construction: Use of rules 281—41.307(256B,34CFR300) to 281—41.310(256B,34CFR300). Nothing in this rule or rule 281—41.308(256B,34CFR300) or 281—41.311(256B,34CFR300) is to be construed as limiting its applicability solely to determining whether a child is an eligible individual on the basis of a specific learning disability. The procedures, methods, etc. listed in this rule and rules 281—41.308(256B,34CFR300) and 281—41.310(256B,34CFR300) may be employed in evaluating any child suspected of being an eligible individual, if appropriate in the child's circumstances.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.308(256B,34CFR300) Additional group members. The determination of whether a child suspected of being an eligible individual due to the presence of a specific learning disability is a child

with a disability, as defined in this chapter, must be made by the child's parents and a team of qualified professionals, which must include the following persons:

41.308(1) Required teachers.

- a. The child's general education teacher; or
- b. If the child does not have a general education teacher, a general education teacher qualified to teach a child of his or her age; or
- c. For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age.

41.308(2) Individual qualified to conduct diagnostic examinations. At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or a remedial reading teacher.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.309(256B,34CFR300) Determining the existence of a specific learning disability.

41.309(1) Required determinations. The group described in rule 281—41.306(256B,34CFR300) may determine that a child has a specific learning disability, as defined in subrule 41.50(10), after considering the following three factors:

a. *Lack of adequate achievement.* The child does not achieve adequately for the child's age, grade-level expectations or such grade-level standards the SEA may choose to adopt in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or grade-level expectations or such grade-level standards the SEA may choose to adopt:

- (1) Oral expression.
- (2) Listening comprehension.
- (3) Written expression.
- (4) Basic reading skill.
- (5) Reading fluency skills.
- (6) Reading comprehension.
- (7) Mathematics calculation.
- (8) Mathematics problem solving.

b. *Lack of adequate progress.*

(1) The child does not make sufficient progress to meet age expectations, grade-level expectations, or such state-approved grade-level standards as the state may choose to adopt in one or more of the areas identified in paragraph 41.309(1) "a" when using a process based on the child's response to scientific, research-based intervention; or

(2) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade-level expectations, such state-approved grade-level standards as the state may choose to adopt, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with rules 281—41.304(256B,34CFR300) and 281—41.305(256B,34CFR300).

c. *Exclusionary factors.* The group determines that its findings under paragraphs 41.309(1) "a" and 41.309(1) "b" are not primarily the result of:

- (1) A visual, hearing, or motor disability;
- (2) Intellectual disability;
- (3) Emotional disturbance;
- (4) Cultural factors;
- (5) Environmental or economic disadvantage; or
- (6) Limited English proficiency.

41.309(2) Review of data. To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in rules 281—41.304(256B,34CFR300) to 281—41.306(256B,34CFR300):

a. Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

b. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

41.309(3) *When consent required.* The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services and must adhere to the time frames described in rules 281—41.301(256B,34CFR300) and 281—41.303(256B,34CFR300):

a. If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs 41.309(2) "a" and "b"; and

b. Whenever a child is referred for an evaluation.

41.309(4) *Rule of construction.* Subparagraph 41.309(1) "b" (2) shall not be construed to require a child with a pattern of strengths and weaknesses in performance, achievement, or both, to be identified as an eligible individual, absent a determination that the child has a disability and needs special education and related services.

41.309(5) *Rule of construction.* A process by which a child's response to intervention is measured is a component of a full and individual evaluation and is not, considered alone, a full and individual evaluation, unless the response to intervention process contains all required elements of a full and individual evaluation under this chapter.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.310(256B,34CFR300) Observation.

41.310(1) *Observation required.* The public agency must ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.

41.310(2) *Who must observe.* The group described in paragraph 41.306(1) "a," in determining whether a child has a specific learning disability, must decide to:

a. Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, consistent with rules 281—41.306(256B,34CFR300), 281—41.309(256B,34CFR300), 281—41.312(256B,34CFR300) and 281—41.313(256B,34CFR300); or

b. Have at least one member of the group described in paragraph 41.306(1) "a" conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with subrule 41.300(1), is obtained.

41.310(3) *Child less than school age or out of school.* In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age. This subrule also applies to school-age children who must be evaluated during school breaks.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.311(256B,34CFR300) Specific documentation for the eligibility determination.

41.311(1) *Documentation required.* For a child suspected of having a specific learning disability, the documentation of the determination that the child is an eligible individual, as required in paragraph 41.306(1) "b," must contain a statement of:

a. Whether the child has a specific learning disability;

b. The basis for making the determination, including an assurance that the determination has been made in accordance with paragraph 41.306(3) "a";

c. The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

d. The educationally relevant medical findings, if any;

e. The determination that:

(1) The child does not achieve adequately for the child's age or to meet grade-level expectations or such grade-level standards the SEA may choose to adopt consistent with paragraph 41.309(1) "a"; and

(2) The child does not make sufficient progress for the child's age or to meet grade-level expectations or such grade-level standards the SEA may choose to adopt consistent with subparagraph 41.309(1)"b"(1); or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to the child's age or to meet grade-level expectations, such grade-level standards the SEA may choose to adopt, or intellectual development consistent with subparagraph 41.309(1)"b"(2);

f. The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

g. If the child has participated in a process that assesses the child's response to scientific, research-based intervention:

(1) The instructional strategies used and the student-centered data collected; and

(2) The documentation that the child's parents were notified about:

1. The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

2. Strategies for increasing the child's rate of learning; and

3. The parents' right to request an evaluation.

41.311(2) Certification required. Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.312(256B,34CFR300) General education interventions. Each LEA, in conjunction with the AEA, shall attempt to resolve the presenting problem or behaviors of concern in the general education environment prior to conducting a full and individual evaluation. In circumstances when there is a suspicion that a child is an eligible individual under this chapter, the AEA or AEA in collaboration with the LEA will conduct a full and individual initial evaluation. Documentation of the rationale for such action will be included in the individual's educational record.

41.312(1) Notice to parents. Each LEA will provide general notice to parents on an annual basis about the provision of general education interventions that occur as a part of the agency's general program and that may occur at any time throughout the school year.

41.312(2) Nature of general education interventions. General education interventions will include consultation with special education support and instructional personnel. General education intervention activities will be documented and include measurable and goal-directed attempts to resolve the presenting problem or behaviors of concern, communication with parents, collection of data related to the presenting problem or behaviors of concern, intervention design and implementation, and systematic progress monitoring to measure the effects of interventions.

41.312(3) Referral for full and individual initial evaluation. If the referring problem or behaviors of concern are shown to be resistant to general education interventions or if interventions are demonstrated to be effective but need continued and substantial effort that may include the provision of special education and related services, the agency shall then conduct a full and individual initial evaluation.

41.312(4) Parent may request evaluation at any time. The parent of a child receiving general education interventions may request that the agency conduct a full and individual initial evaluation at any time during the implementation of such interventions.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.313(256B,34CFR300) Systematic problem-solving process.

41.313(1) Definition. When used by an AEA in its identification process, "systematic problem-solving" means a set of procedures that is used to examine the nature and severity of an educationally related problem. These procedures primarily focus on variables related to developing effective educationally related interventions.

41.313(2) Parent participation in systematic problem-solving process. Active parent participation is an integral aspect of the process and is solicited throughout.

41.313(3) Components. At a minimum, a systematic problem-solving process includes the following components.

a. Description of problem. The presenting problem or behavior of concern is described in objective, measurable terms that focus on alterable characteristics of the individual and the environment. The individual and environment are examined through systematic data collection. The presenting problem or behaviors of concern are defined in a problem statement that describes the degree of discrepancy between the demands of the educational setting and the individual's performance.

b. Data collection and problem analysis. A systematic, data-based process for examining all that is known about the presenting problem or behaviors of concern is used to identify interventions that have a high likelihood of success. Data collected on the presenting problem or behaviors of concern are used to plan and monitor interventions. Data collected are to be relevant to the presenting problem or behaviors of concern and shall be collected in multiple settings using multiple sources of information and multiple data collection methods. Data collection procedures are to be individually tailored, valid, and reliable, and allow for frequent and repeated measurement of intervention effectiveness.

c. Intervention design and implementation. Interventions will be designed based on the preceding analysis, the defined problem, parent input, and professional judgments about the potential effectiveness of interventions. The interventions are to be described in an intervention plan that includes goals and strategies, a progress monitoring plan, a decision-making plan for summarizing and analyzing progress monitoring data, and responsible parties. Interventions will be implemented as developed and modified on the basis of objective data and with the agreement of the responsible parties.

d. Progress monitoring. Systematic progress monitoring will be conducted that includes regular and frequent data collection, analysis of individual performance across time, and modification of interventions as frequently as necessary based on systematic progress monitoring data.

e. Evaluation of intervention effects. The effectiveness of interventions will be evaluated through a systematic procedure in which patterns of individual performance are analyzed and summarized. Decisions regarding the effectiveness of interventions focus on comparisons with initial levels of performance.

41.313(4) Rule of construction. A systematic problem-solving process may be used for any child suspected of being an eligible individual, and nothing in this chapter nor in Part B of the Act is to be construed to limit the applicability of a systematic problem-solving process to children suspected of having a certain type of disability.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.314(256B,34CFR300) Progress monitoring and data collection.

41.314(1) Evidence of progress in general education instruction. Each public agency shall establish standards, consistent with those the department may establish, by which the adequacy of general education instruction, including the quality and quantity of data gathered, is assessed, and whether such data are sufficient in quantity and quality to make decisions under Part B of the Act and this chapter.

41.314(2) Progress monitoring and determining eligibility. Each public agency shall engage in progress monitoring of each individual's progress as the department may prescribe during the process of evaluating whether a child is an eligible individual and record such progress in any manner that the department may permit or prescribe. If the AEA or LEA serving an individual imposes additional standards for the monitoring of progress of individuals during the process of evaluation, personnel serving that individual are to comply with those additional requirements. The team determining the child's eligibility may increase the frequency with which the child's progress is monitored.

41.314(3) Progress monitoring and eligible individuals. Each public agency shall engage in progress monitoring of each eligible individual's progress as the department may prescribe and record such progress in any manner that the department may permit or require. If the AEA or LEA serving an eligible individual imposes additional requirements for the monitoring of progress of eligible individuals, personnel serving that individual will comply with those additional requirements. An IEP team may increase the frequency with which an eligible individual's progress is monitored.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.315 to 41.319 Reserved.

281—41.320(256B,34CFR300) Definition of individualized education program.

41.320(1) General. As used in this chapter, the term “individualized education program” or “IEP” means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with these rules, and that must include:

a. A statement of the child’s present levels of academic achievement and functional performance, including:

(1) How the child’s disability affects the child’s involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(2) For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities;

b. A statement of measurable annual goals, including academic and functional goals designed to meet:

(1) The child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and

(2) Each of the child’s other educational needs that result from the child’s disability;

c. For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;

d. A description of:

(1) How the child’s progress toward meeting the annual goals described in paragraph 41.320(1) “*b*” will be measured; and

(2) When periodic reports on the progress the child is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided;

e. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:

(1) To advance appropriately toward attaining the annual goals;

(2) To be involved in and make progress in the general education curriculum in accordance with paragraph 41.320(1) “*a*,” and to participate in extracurricular and other nonacademic activities; and

(3) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this rule;

f. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph 41.320(1) “*e*”;

g. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and districtwide assessments consistent with Section 612(a)(16) of the Act; and, if the IEP team determines that the child must take an alternate assessment instead of a particular regular state or districtwide assessment of student achievement, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child; and

h. The projected date for the beginning of the services and modifications described in paragraph 41.320(1) “*e*” and the anticipated frequency, location, and duration of those services and modifications.

41.320(2) Transition services. Beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:

a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

b. The transition services, including courses of study, needed to assist the child in reaching those goals.

41.320(3) *Transfer of rights at age of majority.* Beginning not later than one year before the child reaches the age of majority under state law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under rule 281—41.520(256B,34CFR300).

41.320(4) *Construction.* Nothing in this rule shall be construed to require:

a. That additional information be included in a child's IEP beyond what is explicitly required in Section 614 of the Act; or

b. The IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

41.320(5) *Special considerations.* The IEP, or an associated document, must contain the answers to the questions contained in subrule 41.116(4).

41.320(6) *Prohibited practices.* An IEP shall not include practices that are precluded by constitution, statute, this chapter, or any other applicable law.

41.320(7) *Clearing classrooms.* An IEP or a behavioral intervention plan shall not include provisions for clearing all other students out of the regular classroom in order to calm the child requiring special education or the child for whom a behavioral intervention plan has been implemented except as provided in Iowa Code section 279.51A.

If a student whose behavior caused a classroom clearance has an IEP or a behavioral intervention plan, the classroom teacher shall call for and be included in a review and potential revision of the student's IEP or behavioral intervention plan by the student's IEP team. The AEA, in collaboration with the school district, may, when the parent or guardian meets with the IEP team during the review or reevaluation of the student's IEP, inform the parent or guardian of individual or family counseling services available in the area. The public agencies must provide those services if those services are necessary for a FAPE.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.321(256B,34CFR300) IEP team.

41.321(1) *General.* The public agency must ensure that the IEP team for each child with a disability includes the following:

- a.* The parents of the child;
- b.* At least one regular education teacher of the child if the child is, or may be, participating in the regular education environment;
- c.* At least one special education teacher of the child or, where appropriate, at least one special education provider of the child;
- d.* A representative of the public agency who:
 - (1) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (2) Is knowledgeable about the general education curriculum; and
 - (3) Is knowledgeable about the availability of resources of the public agency.
- e.* An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs 41.321(1) "b" to "f";
- f.* At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- g.* Whenever appropriate, the child with a disability.

41.321(2) *Transition services participants.*

a. In accordance with paragraph 41.321(1) "g," the public agency must invite a child with a disability to attend the child's IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under subrule 41.320(2).

b. If the child does not attend the IEP team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

c. To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph 41.321(2) "a," the public agency must invite

a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

41.321(3) *Determination of knowledge and special expertise.* The determination of the knowledge or special expertise of any individual described in paragraph 41.321(1)“f” must be made by the party (parents or public agency) who invited the individual to be a member of the IEP team.

41.321(4) *Designating a public agency representative.* A public agency may designate a public agency member of the IEP team to also serve as the agency representative, if the criteria in paragraph 41.321(1)“d” are satisfied.

41.321(5) *IEP team attendance.*

a. A member of the IEP team described in paragraphs 41.321(1)“b” to “e” is not required to attend an IEP team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member’s area of the curriculum or related services is not being modified or discussed in the meeting.

b. A member of the IEP team described in paragraph 41.321(5)“a” may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member’s area of the curriculum or related services, if:

(1) The parent, in writing, and the public agency consent to the excusal; and

(2) The member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting.

41.321(6) *Initial IEP team meeting for child under Part C.* In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.322(256B,34CFR300) Parent participation.

41.322(1) *Public agency responsibility—general.* Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including:

a. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

b. Scheduling the meeting at a mutually agreed-upon time and place.

41.322(2) *Information provided to parents.*

a. The notice required under paragraph 41.322(1)“a” must:

(1) Indicate the purpose, time, and location of the meeting and who will be in attendance (name and position); and

(2) Inform the parents of the provisions in paragraph 41.321(1)“f” and subrule 41.321(3) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child and subrule 41.321(6) relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP team meeting for a child previously served under Part C of the Act.

b. For a child with a disability, beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team, the notice also must:

(1) Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with subrule 41.320(2), and that the agency will invite the student; and

(2) Identify any other agency that will be invited to send a representative.

41.322(3) *Other methods to ensure parent participation.* If neither parent can attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with rule 281—41.328(256B,34CFR300) related to alternative means of meeting participation.

41.322(4) *Conducting an IEP team meeting without a parent in attendance.* A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed-upon time and place, including:

- a. Detailed records of telephone calls made or attempted and the results of those calls;
- b. Copies of correspondence sent to the parents and any responses received; and
- c. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

41.322(5) *Use of interpreters or other action, as appropriate.* The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose native language is other than English.

41.322(6) *Parent copy of child's IEP.* The public agency must give the parent a copy of the child's IEP at no cost to the parent.

41.322(7) *Rule of construction: "final" versus "draft" IEPs.* An agency shall not present a completed and finalized IEP to parents before there has been a full discussion with the parents regarding the eligible individual's need for special education and related services and the services the agency will provide to the individual. An agency may come prepared with evaluation findings, proposed statements of present levels of educational performance, proposed recommendations regarding annual goals or instructional objectives, and proposals concerning the nature of special education and related services to be provided. The agency shall inform the parents at the outset of the meeting that the proposals are only recommendations for review and discussion with the parents.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.323(256B,34CFR300) When IEPs must be in effect.

41.323(1) *General.* An IEP must be in effect before special education and related services are provided to eligible individuals. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in rule 281—41.320(256B,34CFR300).

41.323(2) Reserved.

41.323(3) *Initial IEPs; provision of services.* Each public agency must ensure that:

- a. A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and
- b. As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

41.323(4) *Accessibility of child's IEP to teachers and others.* Each public agency must ensure that:

- a. The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and
- b. Each teacher and provider described in paragraph 41.323(4) "a" is informed of:
 - (1) His or her specific responsibilities related to implementing the child's IEP; and
 - (2) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

41.323(5) *IEPs for children who transfer public agencies in the same state.* If a child with a disability who had an IEP that was in effect in a previous public agency in this state transfers to a new public agency in this state and enrolls in a new school within the same school year, the new public agency, in consultation with the parents, must provide FAPE to the child including services comparable to those described in the child's IEP from the previous public agency until the new public agency either:

- a. Adopts the child's IEP from the previous public agency; or
- b. Develops, adopts, and implements a new IEP that meets the applicable requirements in these rules.

41.323(6) *IEPs for children who transfer from another state.* If a child with a disability who had an IEP that was in effect in a previous public agency in another state transfers to a public agency in this state

and enrolls in a new school within the same school year, the receiving public agency, in consultation with the parents, must provide the child with FAPE, including services comparable to those described in the child's IEP from the previous public agency, until the receiving public agency:

- a. Conducts an evaluation pursuant to these rules if determined to be necessary by the receiving public agency; and
- b. Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in these rules.

41.323(7) *Transmittal of records.* To facilitate the transition for a child described in subrules 41.323(5) and 41.323(6):

- a. The receiving public agency in which the child enrolls must take all reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR Section 99.31(a)(2); and
- b. The previous public agency in which the child was enrolled must take all reasonable steps to promptly respond to the request from the receiving public agency.

41.323(8) *Other.* An IEP of an eligible individual will be implemented immediately after an IEP team meeting. Exceptions to this would be when the meeting occurs during the summer or vacation period, unless the child requires services during that period, or where there are circumstances requiring a short delay (e.g., making transportation arrangements); however, there can be no undue delay in providing special education and related services to an eligible individual.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.324(256B,34CFR300) Development, review, and revision of IEP.

41.324(1) *Development of IEP.*

- a. *General.* In developing each child's IEP, the IEP team must consider:
 - (1) The strengths of the child;
 - (2) The concerns of the parents for enhancing the education of their child;
 - (3) The results of the initial or most recent evaluation of the child; and
 - (4) The academic, developmental, and functional needs of the child.
- b. *Consideration of special factors.* The IEP team must:
 - (1) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
 - (2) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
 - (3) In the case of a child who is blind or visually impaired, provide for instruction in braille and the use of braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in braille or the use of braille, that instruction in braille or the use of braille is not appropriate for the child;
 - (4) Consider the communication needs of the child and, in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
 - (5) Consider whether the child needs assistive technology devices and services, including accessible instructional materials.
- c. *Requirement with respect to regular education teacher.* A regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of:
 - (1) Appropriate positive behavioral interventions and supports and other strategies for the child; and

(2) Supplementary aids and services, program modifications, and support for school personnel consistent with paragraph 41.320(1) “e.”

d. Agreement.

(1) In making changes to a child’s IEP after the annual IEP team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child’s current IEP.

(2) If changes are made to the child’s IEP in accordance with subparagraph 41.324(1) “d”(1), the public agency must ensure that the child’s IEP team is informed of those changes.

(3) A public agency may only agree to make changes pursuant to subparagraph 41.324(1) “d”(1) concerning resources the public agency has the authority to commit.

e. Consolidation of IEP team meetings. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP team meetings for the child.

f. Amendments. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting or as provided in paragraph 41.324(1) “d” by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

41.324(2) Review and revision of IEPs.

a. General. Each public agency must ensure that, subject to paragraphs 41.324(2) “b” and “c,” the IEP team:

(1) Reviews the child’s IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved; and

(2) Revises the IEP, as appropriate, to address the following:

1. Any lack of expected progress toward the annual goals described in paragraph 41.320(1) “b,” and in the general education curriculum, if appropriate;

2. The results of any reevaluation conducted under rule 281—41.303(256B,34CFR300);

3. Information about the child provided to or by the parents, as described in paragraph 41.305(1) “b”;

4. The child’s anticipated needs; or

5. Other matters.

b. Consideration of special factors. In conducting a review of the child’s IEP, the IEP team must consider the special factors described in paragraph 41.324(1) “b.”

c. Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP team, must, consistent with paragraph 41.324(1) “c,” participate in the review and revision of the IEP of the child.

41.324(3) Failure to meet transition objectives.

a. Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with subrule 41.320(2), the public agency must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

b. Construction. Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

41.324(4) Children with disabilities in adult prisons.

a. Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

(1) The requirements contained in Section 612(a)(16) of the Act and paragraph 41.320(1) “g” relating to participation of children with disabilities in general assessments.

(2) The requirements in subrule 41.320(2) relating to transition planning and transition services do not apply with respect to the children whose eligibility under Part B of the Act will end because of their

age before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

b. Modifications of IEP or placement.

(1) Subject to subparagraph 41.324(4)“b”(2), the IEP team of a child with a disability who is convicted as an adult under state law and incarcerated in an adult prison may modify the child’s IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(2) The requirements in rule 281—41.320(256B,34CFR300) relating to IEPs and rule 281—41.114(256B,34CFR300) relating to LRE do not apply with respect to the modifications described in subparagraph 41.324(4)“b”(1).

41.324(5) Interim IEP. An IEP must be in effect before special education and related services are provided to an eligible individual. This does not preclude the development of an interim IEP that meets all the requirements of rule 281—41.320(256B,34CFR300) when the IEP team determines that it is necessary to temporarily provide special education and related services to an eligible individual as part of the evaluation process, before the IEP is finalized, to aid in determining the appropriate services for the individual. An interim IEP may also be developed when an eligible individual moves from one LEA to another and a copy of the current IEP is not available, or either the LEA or the parent believes that the current IEP is not appropriate or that additional information is needed before a final decision can be made regarding the specific special education and related services that are needed. IEP teams cannot use interim IEPs to circumvent the requirements of this division. It is essential that the temporary provision of service not become the final special education for the individual before the IEP is finalized. In order to ensure that this does not happen, IEP teams shall take the following actions:

a. Specific conditions and timelines. Develop an interim IEP for the individual that sets out the specific conditions and timelines for the temporary service. An interim IEP shall not be in place for more than 30 school days.

b. Parent agreement and involvement. Ensure that the parents agree to the interim service before it is carried out and that they are involved throughout the process of developing, reviewing, and revising the individual’s IEP.

c. Complete evaluation and make judgments. Set a specific timeline for completing the evaluation and making judgments about the appropriate services for the individual.

d. Conduct meeting. Conduct an IEP meeting at the end of the trial period in order to finalize the individual’s IEP.

41.324(6) Rules of construction—instruction in braille. For an eligible individual for whom instruction in braille is determined to be appropriate, as provided in subparagraph 41.324(1)“b”(3), that eligible individual is entitled to instruction in braille reading and writing that is sufficient to enable the individual to communicate with the same level of proficiency as an individual of otherwise comparable ability at the same grade level. Instruction in braille reading and writing may only be provided by a teacher with an endorsement to teach individuals who are blind or visually impaired.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.325(256B,34CFR300) Private school placements by public agencies.

41.325(1) Developing IEPs.

a. Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with these rules.

b. The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

41.325(2) Reviewing and revising IEPs.

a. After a child with a disability enters a private school or facility, any meetings to review and revise the child’s IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

b. If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.

41.325(3) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this chapter remains with the public agency and the SEA.

281—41.326(256B,34CFR300) Other rules concerning IEPs.

41.326(1) Children from birth to the age of three. A fully developed IFSP is considered to have met the rules for an IEP for an eligible individual younger than the age of three.

41.326(2) Support services only. An IEP that satisfies the requirements of this chapter will be developed for eligible individuals who need only special education support services. The special education support service specialist with knowledge in the area of need will have primary responsibility for recommending the need for support service, the type or model of service to be provided, and the amount of service to be provided; however, the determination that an individual is eligible for special education will be based on these rules. Attendance at IEP meetings for students will be determined in accordance with rule 281—41.325(256B,34CFR300).
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.327(256B,34CFR300) Educational placements. Consistent with subrule 41.501(3), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of the child.

281—41.328(256B,34CFR300) Alternative means of meeting participation. When conducting IEP team meetings and placement meetings under this chapter and carrying out administrative matters under Section 615 of the Act, such as scheduling, exchange of witness lists, and status conferences, the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

281—41.329(256B,34CFR300) Family support mentoring program. If moneys are appropriated by the general assembly for a fiscal year for the purpose provided in this rule, the department will develop guidelines for a comprehensive family support mentoring program that meets the language and communication needs of families, or implement them if guidelines already exist. The department, in consultation with the Iowa school for the deaf, will administer the family support mentoring program for deaf or hard-of-hearing children.

41.329(1) General department powers. In establishing the family support mentoring program, the department may do all of the following, either directly or through a contract or agreement:

- a.* Hire a family support mentoring coordinator.
- b.* Utilize the parent resource created in Iowa Code section 256B.10(2) as well as other resources to provide families with information and guidance on language, communication, social, and emotional development of their child.
- c.* Recruit family support mentors to serve the needs of the family support mentoring program.
- d.* Train parents of a deaf or hard-of-hearing child to become family support mentors and train deaf or hard-of-hearing adults to become deaf or hard-of-hearing adult family support mentors.
- e.* Reach out to parents of children identified through the early hearing detection and intervention program in the Iowa department of health and human services and share information about the family support mentoring program services available to such parents.
- f.* Reach out to families referred by primary care providers, the area education agencies, and from other agencies that provide services to deaf or hard-of-hearing children.
- g.* Provide follow-up contact, as necessary, to establish services after initial referral.
- h.* Provide administrative oversight of any program established under this rule. Administrative oversight may include:
 - (1) Review of the qualifications of mentors;
 - (2) Alignment of family needs with paired mentors;

- (3) Administration and analysis of satisfaction surveys; and
- (4) Gathering demographic data of those served, such as ages and geographic location of children.

41.329(2) Collaboration.

a. The department shall work with the early hearing detection and intervention program in the Iowa department of health and human services, the Iowa school for the deaf, and the area education agencies when developing the guidelines.

b. The department shall coordinate family support mentoring activities with the early hearing detection and intervention program in the Iowa department of health and human services, the Iowa school for the deaf, the area education agencies, and nonprofit organizations that provide family support mentoring to parents with deaf or hard-of-hearing children.

41.329(3) Nature of the program.

a. A family support mentor may be any of the following:

(1) A parent who has experience raising a child who is deaf or hard-of-hearing and who has experience supporting the child's communication and language development.

(2) A deaf or hard-of-hearing adult who serves as a deaf or hard-of-hearing role model for the children and their families. Deaf or hard-of-hearing family support mentors may provide parents with an understanding of American sign language and English, including instructional philosophies for both, such as bilingual bimodal, listening and spoken language, total communication, and other philosophies, as well as other forms of communication, deaf culture, deaf community, and self-identity.

(3) The department will ensure mentors are qualified to provide supports that match the specific needs, experiences, and desires of families of children who are deaf or hard-of-hearing.

(4) Nothing in this rule shall be construed to create or require any credential or certification to serve as a family support mentor.

b. With the consent of the parent of the deaf or hard-of-hearing child, the family support mentoring program shall pair families based on the specific need, experience, or want of the parent of the deaf or hard-of-hearing child with another family mentor or deaf or hard-of-hearing adult mentor to provide support.

c. The family support mentoring program under this rule shall meet the following additional standards:

(1) Serve families of children who are deaf or hard-of-hearing from the child's birth through age 8, and may serve learners up to age 21;

(2) Provide services statewide, regardless of educational setting of the child;

(3) Make services available to families based on their specific need, experience, or want;

(4) Make services available to all children who are deaf or hard-of-hearing and their families, regardless of children's eligibility for other programs, including Section 504 of the Rehabilitation Act of 1973; and

(5) Not condition receipt of services under this rule upon eligibility under this chapter or 281—Chapter 120.

41.329(4) Rule of construction. This rule only applies in a fiscal year for which there is an appropriation by the general assembly.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.330 to 41.399 Reserved.

DIVISION VI
ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION

281—41.400(256B,34CFR300) Shared responsibility.

41.400(1) General. It is the responsibility of each eligible individual's resident LEA to provide or make provision for appropriate special education and related services to meet the requirements of state and federal statutes and rules. This responsibility may be met by one or more of the following: by each LEA acting for itself, by action of two or more LEAs through the establishment and maintenance of joint programs, by the AEA, by contract for services from approved public or private agencies offering

the appropriate special education and related services, or by any combination of these options. The AEA shall support and assist LEAs in meeting their responsibilities for providing appropriate special education and related services. Part B of the Act and this chapter are binding on each public agency that has direct or delegated authority to provide special education and related services regardless of whether that agency is receiving funds under Part B of the Act.

41.400(2) *Shared responsibility between general education and special education.* General education and special education personnel share responsibility in providing appropriate educational programs for eligible individuals and in providing intervention and prevention services to individuals who are experiencing learning or adjustment problems.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.401(256B,34CFR300) Licensure (certification). Special education personnel shall meet the board of educational examiners' licensure (certification) and endorsement or recognition requirements for the position for which they are employed. In addition, personnel providing special education and related services who do not hold board of educational examiners' licensure (certification) or other recognition required by its board, and who, by the nature of their work, are required to hold a professional or occupational license, certificate or permit in order to practice or perform the particular duties involved in this state shall be required to hold a license, certificate, or permit.

281—41.402(256B,273,34CFR300) Authorized personnel. An agency is authorized to employ the following types of special education personnel, as appropriate to the special education and related services provided.

41.402(1) *Director of special education.* The director shall be responsible for the implementation of special education for eligible individuals pursuant to Iowa Code section 273.5 and these rules. The director's powers and duties shall include:

- a. Properly identifying children requiring special education,
- b. Ensuring that each child requiring special education in the area receives an appropriate special education program or service,
- c. Assigning appropriate weights for each child requiring special education programs or services as provided in Iowa Code section 256B.9,
- d. Supervising special education support personnel,
- e. Providing each school district within the area served and the department with a special education weighted enrollment count, including the additional enrollment because of special education by the date specified in the Iowa Code,
- f. Submitting to the department special education instructional and support program plans and applications, subject to the criteria listed in Iowa Code chapters 256B and 273, for approval by the deadline specified in the Iowa Code,
- g. Coordinating the special education program within the area served, and
- h. Reporting any violation of the Act or this chapter to the department for appropriate action.

41.402(2) *Special education instructional personnel.* Special education instructional personnel serve as teachers or instructional assistants at the preschool, elementary or secondary levels for eligible individuals.

41.402(3) *Special education support personnel.* The following positions are those of special education support personnel who provide special education and related services as stated in each definition. These personnel work under the direction of the director and may provide identification, evaluation, remediation, consultation, systematic progress monitoring, continuing education and referral services in accordance with appropriate licensure (certification) and endorsement or approval, or statement of professional recognition. They may also engage in data collection, applied research and program evaluation.

"Assistant director of special education" provides specific areawide administrative, supervisory and coordinating functions as delegated by the director.

“Audiologist” applies principles, methods and procedures for analysis of hearing functioning in order to plan, counsel, coordinate and provide intervention strategies and services for individuals who are deaf or hard of hearing.

“Consultant” is the special education instructional specialist who provides ongoing support to special and general education instructional personnel delivering services to eligible individuals. The consultant participates in the identification process and program planning of eligible individuals as well as working to attain the least restrictive environment appropriate for each eligible individual. The consultant demonstrates instructional procedures, strategies, and techniques; assists in the development of curriculum and instructional materials; assists in transition planning; and provides assistance in classroom management and behavioral intervention.

“Educational interpreter” interprets or translates spoken language into sign language commensurate with the receiver’s language comprehension and interprets or translates sign language into spoken language.

“Educational strategist” provides assistance to general education classroom teachers in developing intervention strategies for individuals who are disabled in obtaining an education but can be accommodated in the general education classroom environment.

“Itinerant teacher” provides special education on an itinerant basis to eligible individuals.

“Occupational therapist” is a licensed health professional who applies principles, methods and procedures for analysis of, but not limited to, motor or sensorimotor functions to determine the educational significance of identified problem areas including fine motor manipulation, self-help, adaptive work skills, and play or leisure skills in order to provide planning, coordination, and implementation of intervention strategies and services for eligible individuals.

“Others (other special education support personnel)” may be employed as approved by the department and board of educational examiners.

“Physical therapist” is a licensed health professional who applies principles, methods and procedures for analysis of motor or sensorimotor functioning to determine the educational significance of motor or sensorimotor problems within, but not limited to, areas such as mobility and positioning in order to provide planning, coordination, and the implementation of intervention strategies and services for eligible individuals.

“School psychologist” assists in the identification of needs regarding behavioral, social, emotional, educational and vocational functioning of individuals; analyzes and integrates information about behavior and conditions affecting learning; consults with school personnel and parents regarding planning, implementing and evaluating individual and group interventions; provides direct services through counseling with parents, individuals and families; and conducts applied research related to psychological and educational variables affecting learning.

“School social worker” enhances the educational programs of individuals by assisting in identification and assessment of individuals’ educational needs including social, emotional, behavioral and adaptive needs; provides intervention services including individual, group, parent and family counseling; provides consultation and planning; and serves as a liaison among home, school and community.

“Special education coordinator” facilitates the provision of special education within a specific geographic area.

“Special education media specialist” is a media specialist who facilitates the provision of media services to eligible individuals; provides consultation regarding media and materials used to support special education and related services for eligible individuals; and aids in the effective use of media by special education personnel.

“Special education nurse” is a professional registered nurse who assesses, identifies and evaluates the health needs of eligible individuals; interprets for the family and educational personnel how health needs relate to individuals’ education; implements specific activities commensurate with the practice of professional nursing; and integrates health into the educational program.

“Speech-language pathologist” applies principles, methods and procedures for an analysis of speech and language comprehension and production to determine communicative competencies and provides

intervention strategies and services related to speech and language development as well as disorders of language, voice, articulation and fluency.

“*Supervisor*” is the professional discipline specialist who provides for the development, maintenance, supervision, improvement and evaluation of professional practices and personnel within a specialty area.

“*Work experience coordinator*” plans and implements sequential secondary programs that provide on- and off-campus work experience for individuals requiring specially designed career exploration and vocational preparation when they are not available through the general education curriculum.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.403(256B) Paraprofessionals.

41.403(1) Responsibilities. Special education personnel may be employed to assist in the provision of special education and related services to children with disabilities and shall:

a. Complete appropriate preservice and ongoing staff development specific to the functions to be performed. The agency shall make provisions for or require such completion prior to the beginning of service wherever practicable and within a reasonable time of the beginning of service where the preentry completion is not practicable.

b. Work under the supervision of professional personnel who are appropriately authorized to provide direct services in the same area where the paraprofessional provides assistive services.

c. Not serve as a substitute for appropriately authorized professional personnel.

41.403(2) Authorized special education paraprofessionals. Authorized special education paraprofessional roles include:

“*Audiometrist*” provides hearing screening and other specific hearing-related activities as assigned by the audiologist.

“*Licensed practical nurse*” shall be permitted to provide supportive and restorative care to an eligible individual in the school setting in accordance with the student’s health plan when under the supervision of and as delegated by the registered nurse employed by the school district.

“*Occupational therapy assistant*” is licensed to perform occupational therapy procedures and related tasks that have been selected and delegated by the supervising occupational therapist.

“*Others*” as approved by the department, such as educational assistants described in 281—subrule 12.4(9).

“*Para-educator*” is a licensed educational assistant as defined in Iowa Code section 256.157.

“*Physical therapist assistant*” is licensed to perform physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist.

“*Psychology assistant*” collects screening data through records review, systematic behavior observations, standardized interviews, group and individual assessment techniques; implements psychological intervention plans; and maintains psychological records under supervision of the school psychologist.

“*Speech-language pathology assistant*” provides certain language, articulation, voice and fluency activities as assigned by the supervising speech-language pathologist.

“*Vision assistant*” provides materials in the appropriate medium for use by individuals who are blind or visually impaired and performs other duties as assigned by the supervising teacher of the visually impaired.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.404(256B) Policies and procedures required of all public agencies.

41.404(1) Policies. Policies related to the provision of special education and related services shall be developed by each public agency and made available to the department upon request to include the following:

- a. Policy to ensure the provision of a free appropriate public education.
- b. Policy for the provision of special education and related services.
- c. Policies to ensure the provision of special education and related services in the least restrictive environment.

- d. Policy concerning the protection of confidentiality of personally identifiable information.
- e. Policy concerning graduation requirements for eligible individuals.
- f. Policy to ensure the participation of eligible individuals in districtwide assessment programs.

41.404(2) Procedures. Each public agency shall develop written procedures concerning the provision of special education and related services and shall make such procedures available to the department upon request and shall, at a minimum, include:

- a. Procedures to ensure the provision of special education and related services.
- b. Procedures for protecting the confidentiality of personally identifiable information.
- c. Procedures for the graduation of eligible individuals.
- d. Procedures for providing continuing education opportunities.
- e. A procedure for its continued participation in the development of the eligible individual's IEP in out-of-state placements and shall outline a program to prepare for the eligible individual's transition back to the LEA before the eligible individual is placed out of state.
- f. Procedures for ensuring procedural safeguards for children with disabilities and their parents.
- g. Procedures to ensure the participation of eligible individuals in districtwide assessment programs.

41.404(3) Rule of construction. Any public agency will adopt any policy and procedure necessary to comply with Part B of the Act and this chapter, even if such a policy or procedure is not listed in this rule.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.405 Reserved.

281—41.406(256B) Additional requirements of LEAs. The following provisions are applicable to each LEA that provides special education and related services.

41.406(1) Policies. Each LEA will develop written policies pertinent to the provision of special education and related services and make such policies available to the department upon request. At a minimum, such policies include those identified in subrule 41.404(1).

41.406(2) Procedures. Each LEA will develop written procedures pertinent to the provision of special education and related services and make such procedures available to the department upon request. At a minimum, such procedures include those identified in subrule 41.404(2).

41.406(3) Plans. Districtwide plans required by the department or federal programs and regulations will address eligible individuals and describe the relationship to or involvement of special education services.

41.406(4) Nonpublic schools. Each LEA shall provide special education and related services designed to meet the needs of nonpublic school students with disabilities residing in the jurisdiction of the agency in accordance with Iowa Code sections 256.12(2) and 273.2.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.407(256B,273,34CFR300) Additional requirements of AEAs. The following provisions are applicable to each AEA that provides special education and related services.

41.407(1) Policies. Each AEA will develop written policies pertinent to the provision of special education and related services and will make such policies available to the department upon request. At a minimum, such policies will include those identified in paragraphs 41.404(1) "a" to "e" and the following:

- a. Policy regarding appointment of surrogate parents.
- b. Policy regarding provision of and payment for independent educational evaluations.
- c. Policy to ensure the goal of providing a full educational opportunity to all eligible individuals.
- d. Policy addressing the methods of ensuring services to eligible individuals.
- e. Child find policy that ensures that individuals with disabilities who are in need of special education and related services are identified, located and evaluated.
- f. A policy that meets the requirements of these rules for evaluating and determining eligibility of students who require special education, including a description of the extent to which the AEA system

uses categorical designations. While AEAs may identify students as eligible for special education without designating a specific disability category, it is recognized that in certain circumstances the identification of a specific disability may enhance the development and ongoing provision of an appropriate educational program.

- g. Policy for the development, review and revision of IEPs.
- h. Policy for transition from Part C to Part B.
- i. Policy for provision of special education and related services to students in accredited, nonpublic schools.

41.407(2) Procedures. Each AEA will develop written procedures pertinent to the provision of special education and related services and make such procedures available to the department upon request. At a minimum, such procedures include those identified in subrule 41.404(2) and the following:

- a. Appointment of surrogate parents.
- b. Provision of and payment for independent educational evaluations.
- c. Procedures for monitoring the caseloads of LEA and AEA special education personnel to ensure that the IEPs of eligible individuals are able to be fully implemented. The description shall include the procedures for timely and effective resolution of concerns about caseloads and paraprofessional assistance that have not been resolved satisfactorily pursuant to subparagraph 41.408(2) "b"(3).
- d. Procedures for evaluating the effectiveness of services in meeting the needs of eligible individuals in order to receive federal assistance.
- e. Child find procedures that ensure that individuals with disabilities who are in need of special education and related services are identified, located and evaluated.
- f. Evaluation and determination of eligibility procedures for identifying students who require special education that meet the requirements of these rules, including a description of the extent to which the AEA system uses categorical designations.
- g. Procedures for the development, review and revision of IEPs.
- h. Procedures to ensure the provision of special education and related services in the least restrictive environment.
- i. Procedures for transition from Part C to Part B.
- j. Procedures for provision of special education and related services to students in accredited, nonpublic schools.
- k. Procedures describing the methods of ensuring services to eligible individuals.

41.407(3) Responsibility for monitoring of compliance. The AEA shall conduct activities in each constituent LEA to monitor compliance with the provisions of all applicable federal and state statutes and regulations and rules applicable to the education of eligible individuals. Monitoring of compliance activities will be as directed by the department.

41.407(4) Educate and inform. The AEA will provide the department with a description of proactive steps to inform and educate parents, AEA and LEA staff regarding eligibility, identification criteria and process, and due process steps to be followed when parents disagree regarding eligibility.

41.407(5) Coordination of services. The AEA will provide the department with a description of how the AEA identification process and LEA delivery systems for instructional services will be coordinated. [ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.408(256B,273,34CFR300) Instructional services.

41.408(1) General. Instructional services are the specially designed instruction and accommodations provided by special education instructional personnel to eligible individuals. These services are ordinarily provided by the LEA but, in limited circumstances, may be provided by another LEA, the AEA or another recognized agency through contractual agreement. An agency must use the procedure and criteria described in subrule 41.408(2) for creating a delivery system for instructional services.

41.408(2) Delivery system. An agency shall use the following development process for creating a system for delivering instructional services.

a. The delivery system shall meet this chapter's requirements relating to a continuum of services and placements, address the needs of eligible individuals aged 3 to 21, and provide for the following:

(1) The provision of accommodations and modifications to the general education environment and program, including settings and programs in which eligible individuals aged 3 through 5 receive specially designed instruction, including modification and adaptation of curriculum, instructional techniques and strategies, and instructional materials.

(2) The provision of specially designed instruction and related activities through cooperative efforts of special education teachers and general education teachers in the general education classroom.

(3) The provision of specially designed instruction on a limited basis by a special education teacher in the general classroom or in an environment other than the general classroom, including consultation with general education teachers.

(4) The provision of specially designed instruction to eligible individuals with similar special education instructional needs organized according to the type of curriculum and instruction to be provided, and the severity of the educational needs of the eligible individuals served.

b. The delivery system shall be described in writing and shall include the following components:

(1) A description of how services will be organized and how services will be provided to eligible individuals consistent with the requirements of this chapter, and the provisions described in paragraph 41.408(2) "a."

(2) A description of how the caseloads of special education teachers will be determined and regularly monitored to ensure that the IEPs of eligible individuals are able to be fully implemented.

(3) A description of the procedures a special education teacher can use to resolve concerns about caseload. The procedures shall specify timelines for the resolution of a concern and identify the person to whom a teacher reports a concern. The procedures shall also identify the person or persons who are responsible for reviewing a concern and rendering a decision, including the specification of any corrective actions.

(4) A description of the process that will be used to evaluate the effectiveness of the system.

(5) A description of how the delivery system will meet the targets identified in the state's performance plan, described in this chapter.

(6) A description of how the delivery system will address needs identified by the state in any determination made under this chapter.

c. The following procedures shall be followed by the agency:

(1) The delivery system will be developed by a group of individuals that includes parents of eligible individuals, special education and general education teachers, administrators, and at least one AEA representative. The AEA representative will be selected by the AEA director.

(2) The AEA director of special education will verify that the delivery system complies with these rules prior to LEA board adoption.

(3) Prior to presenting the delivery system to the LEA board for adoption, the group responsible for its development will provide an opportunity for comment on the system by the general public. In presenting the delivery system to the LEA board for adoption, the group will describe the comment received from the general public and how the comment was considered.

(4) The LEA board will approve the system prior to implementation.

d. The procedure presented in subrule 41.907(9) shall be followed in applying the weighting plan for special education instructional funds described in Iowa Code section 256B.9 to any delivery system developed under these provisions.

e. An LEA shall review, revise, and readopt its delivery system using the procedures identified in paragraph "c" of this subrule at least every five years, or sooner if required by the state in conjunction with any determination made under this chapter.

f. An LEA shall make the document describing its delivery system readily available to LEA personnel and members of the public.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.409(256B,34CFR300) Support services. Support services are the specially designed instruction and activities that augment, supplement or support the educational program of eligible individuals. These services include special education consultant services, educational strategist services, audiology, occupational therapy, physical therapy, school psychology, school social work services, special education nursing services, and speech-language services. Support services are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the board, by another qualified agency.

281—41.410(256B,34CFR300) Itinerant services. Special education may be provided to eligible individuals on an itinerant basis.

41.410(1) School based. Special education may be provided on an itinerant basis whenever the number, age, severity, or location of eligible individuals to be served does not justify the provision of professional personnel on a full-time basis to an attendance center. These services are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the AEA board, by the LEA or another qualified agency.

41.410(2) Home service or hospital service. Special education shall be provided to eligible individuals whose condition precludes their participation in the general and special education provided in schools or related facilities. Home or hospital instructional services shall in ordinary circumstances be provided by the LEA but may be provided by contractual agreement, subject to the approval of the LEA board, by the AEA or another qualified agency. Home or hospital support or related services are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the AEA board, by the LEA or another qualified agency. The provision of services in a home or hospital setting shall satisfy the following:

- a. The service and the location of the service shall be specified in the individual's IEP.
- b. The status of these individuals shall be periodically reviewed to substantiate the continuing need for and the appropriateness of the service.
- c. Procedural safeguards shall be afforded to individuals receiving special education through itinerant services in a home or hospital setting. A need for itinerant services in a home or hospital setting must be determined at a meeting to develop or revise the individual's IEP, and parents must give consent or be given notice, as appropriate.

281—41.411(256B,34CFR300) Related services, supplementary aids and services. Related services and supplementary aids and services shall be provided to an eligible individual in accordance with an IEP. Such services that are also support services under rule 281—41.409(256B,34CFR300) are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the board, by another qualified agency. Other such services are usually provided by the LEA but may be provided by contractual agreement, subject to the approval of the board, by another qualified agency.

281—41.412(256B,34CFR300) Transportation. Transportation of eligible individuals shall generally be provided as for other individuals, when appropriate. Specialized transportation of an eligible individual to and from a special education instructional service is a function of that service and, therefore, an appropriate expenditure of special education instructional funds generated through the weighting plan. Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

41.412(1) Special arrangements. Transportation of an eligible individual to and from a special education support service is a function of that service, shall be specified in the IEP, and be considered an appropriate expenditure of funds generated for special education support services. When, because of an eligible individual's educational needs or because of the location of the program, the IEP team determines that unique transportation arrangements are required and the arrangements are specified in the IEP, the resident LEA shall be required to provide one or more of the following transportation arrangements for instructional services and the AEA for support services:

a. Transportation from the eligible individual's residence to the location of the special education services and back to the individual's residence, or child care placement for eligible individuals below the age of six.

b. Special assistance or adaptations in getting the eligible individual to and from and on and off the vehicle, en route to and from the special education services.

c. Reimbursement of the actual costs of transportation when by mutual agreement the parents provide transportation for the eligible individual to and from the special education services.

d. Agencies are not required to provide reimbursement to parents who elect to provide transportation in lieu of agency-provided transportation.

41.412(2) Responsibility for transportation.

a. The AEA shall provide the cost of transportation of eligible individuals to and from special education support services. The AEA shall provide the cost of transportation necessary for the provision of special education support services to nonpublic school eligible individuals if the cost of that transportation is in addition to the cost of transportation provided for special education instructional services.

b. When individuals enrolled in nonpublic schools are enrolled in public schools to receive special education instructional services, transportation provisions between nonpublic and public attendance centers will be the responsibility of the school district of residence.

c. Transportation of individuals, when required for educational diagnostic purposes, is a special education support service and, therefore, an appropriate expenditure of funds generated for special education support services.

41.412(3) Purchase of transportation equipment. When it is necessary for an LEA to purchase equipment to transport eligible individuals to special education instructional services, this equipment shall be purchased from the LEA's general fund, the physical plant and equipment levy (PPEL) fund, or the secure an advanced vision for education (SAVE) fund, if appropriate. The direct purchase of transportation equipment is not an appropriate expenditure of special education instructional funds generated through the weighting plan. A written schedule of depreciation for this transportation equipment shall be developed by the LEA, using the method specified in Iowa Code section 285.1(12). An annual charge to special education instructional funds generated through the weighting plan for depreciation of the equipment shall be made and reported as a special education transportation cost in the LEA Certified Annual Report if the equipment was purchased from the general fund. If the transportation equipment was purchased using funds from the PPEL fund or SAVE fund, that purchase is not reported as a cost from special education funds generated through the weighting plan. Annual depreciation charges on transportation equipment purchased with funds from the PPEL fund or SAVE fund shall be calculated by the LEA according to the directions provided with the Annual Transportation Report and adjusted to reflect the proportion of special education mileage to the total annual mileage.

41.412(4) Lease of transportation equipment. An LEA may elect to lease equipment to transport eligible individuals to special education instructional services, in which case the lease cost would be an expenditure from the PPEL fund or the SAVE fund, if appropriate. Cost of the lease, or that portion of the lease attributable to special education transportation expense, shall not be considered a special education transportation cost and shall not be reported in the LEA Certified Annual Report.

41.412(5) Transportation equipment safety standards. All transportation equipment, either purchased or leased by an LEA to transport eligible individuals to special education instructional services or provided by an AEA, must conform to the transportation equipment safety and construction standards contained in 281—Chapters 43 and 44.

41.412(6) Transportation for students in interdistrict and intradistrict school choice programs, such as open enrollment. The following provisions apply to the transportation of eligible individuals who participate in school choice programs:

a. A parent who elects to have an eligible individual attend another school within an LEA may be required by the LEA to provide transportation to that eligible individual, even if transportation is listed on the eligible individual's IEP as a service.

b. If a parent elects to have an eligible individual with transportation listed as a service on the individual's IEP attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the resident district informs the parent it will not be providing transportation for the eligible individual to the receiving district, a parent who chooses to proceed with open enrollment will be deemed, as a matter of law, to have waived the transportation listed as a service on the IEP.

c. If a parent of an eligible individual with transportation listed as a service on the individual's IEP elects to have the eligible individual attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the resident district elects to provide that transportation as a service, such transportation as a related service may be provided by the resident district, regardless of consent granted or refused by the receiving district and notwithstanding any other statute or rule to the contrary.

d. If a parent of an eligible individual with transportation listed as a service on the individual's IEP elects to have the eligible individual attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the receiving district elects to provide that transportation as a service, such transportation as a related service may be provided by the receiving district, regardless of consent granted or refused by the resident district and notwithstanding any other statute or rule to the contrary, but the costs of such transportation shall not be paid by the individual's resident district.

e. If an eligible individual's placement team proposes placement in a district other than the district of residence based on a tuition arrangement, regardless of whether the eligible individual's IEP lists transportation as a related service, and the other district agrees to accept the eligible individual as an open enrollment student but not as a tuition student, the receiving district must provide transportation as a related service, regardless of consent granted or refused by the receiving district and notwithstanding any other statute or rule to the contrary.

f. Except as expressly provided in this subrule, nothing in this subrule creates or expands any right, license, or privilege concerning transportation of persons who are not eligible individuals or transportation of eligible individuals who do not have transportation listed as a service on an IEP.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools.

41.413(1) *State and local funds under Iowa Code section 256.12.* State and local funds expended to provide special education and related services to eligible individuals who receive special education and related services in accredited nonpublic schools under Iowa Code section 256.12 must be expended on services, including materials and equipment, that are secular, neutral, and nonideological and, unless a provision of Iowa Code section 256.12 specifically requires the contrary, are subject to the restrictions contained in rules 281—41.138(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300).

41.413(2) *Placements by public agencies.* State and local funds expended to provide special education and related services to eligible individuals who receive special education and related services in accredited nonpublic schools pursuant to a placement made or referred by a public agency pursuant to rules 281—41.145(256B,34CFR300) to 281—41.147(256B,34CFR300) must be expended on services, including materials and equipment, that are secular, neutral, and nonideological and, unless a provision of law specifically requires the contrary, are subject to the restrictions contained in rules 281—41.138(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.414 to 41.499 Reserved.

DIVISION VII
PROCEDURAL SAFEGUARDS

281—41.500(256B,34CFR300) Responsibility of SEA and other public agencies. The department shall ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of rules 281—41.500(256B,34CFR300) to 281—41.536(256B,34CFR300).

281—41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings.

41.501(1) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of rules 281—41.613(256B,34CFR300) to 281—41.621(256B,34CFR300), an opportunity to inspect and review all education records with respect to:

- a. The identification, evaluation, and educational placement of the child; and
- b. The provision of FAPE to the child.

41.501(2) Parent participation in meetings.

a. The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to:

- (1) The identification, evaluation, and educational placement of the child; and
- (2) The provision of FAPE to the child.

b. Each public agency must provide notice consistent with paragraphs 41.322(1)“a” and 41.322(2)“b” to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph 41.501(2)“a.”

c. A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

41.501(3) Parent involvement in placement decisions.

a. Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent’s child.

b. In implementing the requirements of paragraph 41.501(3)“a,” the public agency must use procedures consistent with the procedures described in subrule 41.322(1) to paragraph 41.322(2)“a.”

c. If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

d. A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent’s participation in the decision. In this case, the public agency must have a record of its attempt to ensure parental involvement.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.502(256B,34CFR300) Independent educational evaluation.

41.502(1) General.

a. The parents of a child with a disability have the right to obtain an independent educational evaluation of the child, subject to subrules 41.502(2) to 41.502(5).

b. Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and the agency criteria applicable for independent educational evaluations as set forth in subrule 41.502(5).

c. For the purposes of this division:

(1) “Independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(2) “Public expense” means that the AEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

41.502(2) Parent right to evaluation at public expense.

a. A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the AEA, subject to the conditions in paragraphs 41.502(2) “*b*” to “*d*.”

b. If a parent requests an independent educational evaluation at public expense, the AEA must, without unnecessary delay, either:

(1) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(2) Ensure that an independent educational evaluation is provided at public expense, unless the AEA demonstrates in a hearing pursuant to these rules that the evaluation obtained by the parent did not meet agency criteria.

c. If the AEA files a due process complaint notice to request a hearing and the final decision is that the AEA’s evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

d. If a parent requests an independent educational evaluation, the AEA may ask for the parent’s reason why the parent objects to the public evaluation. However, the AEA may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

e. A parent is entitled to only one independent educational evaluation at public expense each time a public agency conducts an evaluation with which the parent disagrees.

41.502(3) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with a public agency an evaluation obtained at private expense, the results of the evaluation:

a. Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

b. May be presented by any party as evidence at a hearing on a due process complaint under this chapter regarding that child.

41.502(4) Requests for evaluations by administrative law judges. If an administrative law judge requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

41.502(5) Agency criteria.

a. If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent’s right to an independent educational evaluation.

b. Except for the criteria described in paragraph 41.502(5) “*a*,” a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.503(256B,34CFR300) Prior notice by the public agency; content of notice.

41.503(1) Notice. Written notice that meets the requirements of subrule 41.503(2) must be given to the parents of a child with a disability within a reasonable time before the public agency:

a. Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

b. Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

41.503(2) Content of notice. The notice required under subrule 41.503(1) must include the following:

a. A description of the action proposed or refused by the agency;

b. An explanation of why the agency proposes or refuses to take the action;

c. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

d. A statement that the parents of a child with a disability have protection under the procedural safeguards of this chapter and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

e. Sources for parents to contact to obtain assistance in understanding the provisions of this chapter;

f. A description of other options that the IEP team considered and the reasons why those options were rejected; and

g. A description of other factors that are relevant to the agency's proposal or refusal.

41.503(3) Notice in understandable language.

a. The notice required under subrule 41.503(1) must be written in language understandable to the general public, and must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

b. If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure the following:

(1) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(2) The parent understands the content of the notice; and

(3) There is written evidence that the requirements in subparagraphs 41.503(3) "b"(1) and (2) have been met.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.504(256B,34CFR300) Procedural safeguards notice.

41.504(1) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only once a school year, except that a copy also must be given to the parents as follows:

a. Upon initial referral or parent request for evaluation;

b. Upon receipt of the first state complaint under rules 281—41.151(256B,34CFR300) to 281—41.153(256B,34CFR300) and upon receipt of the first due process complaint under rule 281—41.507(256B,34CFR300) in a school year;

c. In accordance with the discipline procedures in subrule 41.530(8); and

d. Upon request by a parent.

41.504(2) Internet website. A public agency may place a current copy of the procedural safeguards notice on its Internet website if a website exists.

41.504(3) Contents. The procedural safeguards notice must include a full explanation of all the procedural safeguards available under this chapter relating to the following:

a. Independent educational evaluations;

b. Prior written notice;

c. Parental consent;

d. Access to education records;

e. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, and must explain:

(1) The time period in which to file a complaint;

(2) The opportunity for the agency to resolve the complaint; and

(3) The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;

f. The availability of mediation;

g. The child's placement during the pendency of any due process complaint;

h. Procedures for students who are subject to placement in an interim alternative educational setting;

i. Requirements for unilateral placement by parents of children in private schools at public expense;

- j.* Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
- k.* Civil actions, including the time period in which to file those actions; and
- l.* Attorneys' fees.

41.504(4) *Notice in understandable language.* The notice required under subrule 41.504(1) must meet the requirements of subrule 41.503(3).

41.504(5) *"Summaries" of procedural safeguards limited.* An AEA or LEA may only provide a document summarizing the procedural safeguards notice if that document has been approved by the department. Any summary is to inform parents that the summary is only provided for the convenience of the reader and is not a replacement for the procedural safeguards notice. Any approved summary of the procedural safeguards notice will be given along with the procedural safeguards notice and will not be given in place of the procedural safeguards notice.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.505(256B,34CFR300) Electronic mail. A parent of a child with a disability may elect to receive notices required by these rules by an electronic mail communication, if the public agency makes that option available.

281—41.506(256B,34CFR300) Mediation.

41.506(1) *General.* Each public agency must ensure that procedures are established and implemented to allow parties involved in disputes relating to any matter under this chapter, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process.

41.506(2) *Requirements.* The procedures must meet the following requirements:

- a.* The procedures must ensure that the mediation process:
 - (1) Is voluntary on the part of the parties;
 - (2) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and
 - (3) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- b.* A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:
 - (1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the state established under Section 671 or 672 of the Act; and
 - (2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.
- c.* State responsibility for mediation.
 - (1) The state must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.
 - (2) The SEA must select mediators on a random, rotational, or other impartial basis.
- d.* The state must bear the cost of the mediation process, including the costs of meetings described in paragraph 41.506(2) "b."
- e.* Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- f.* If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:
 - (1) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - (2) Is signed by both the parent and a representative of the agency who has the authority to bind the agency.

g. A written, signed mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.

h. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal court or state court.

41.506(3) Impartiality of mediator.

a. An individual who serves as a mediator under this chapter:

(1) May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and

(2) Must not have a personal or professional interest that conflicts with the person's objectivity.

b. A person who otherwise qualifies as a mediator is not an employee of an LEA or state agency described under rule 281—41.228(256B,34CFR300) solely because the person is paid by the agency to serve as a mediator.

41.506(4) Mediation procedures. A request for mediation filed before the filing of a due process complaint shall be conducted according to the procedures described in rule 281—41.1002(256B,34CFR300).

41.506(5) Rule of construction. The department shall accept documents captioned as requests for a “preappeal conference” as requests for mediation prior to the filing of a due process complaint.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.507(256B,34CFR300) Filing a due process complaint.

41.507(1) General.

a. Subject matter of due process complaint. A parent or a public agency may file a due process complaint on any of the matters described in subrule 41.503(1) relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.

b. The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, except that the exceptions to the timeline described in subrule 41.511(6) apply to the timeline in this rule.

41.507(2) Information for parents. The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or the parent or the agency files a due process complaint under this rule.

41.507(3) Synonymous term. Whenever the term “request for due process hearing” is used in prior department rules and documents, that term shall be construed to mean “due process complaint.”

281—41.508(256B,34CFR300) Due process complaint.

41.508(1) General. A due process complaint shall be provided to the department, and a copy shall be provided to each party to the complaint.

41.508(2) Content of complaint. The due process complaint required in subrule 41.508(1) must include the following information:

a. The name of the child;

b. The address of the residence of the child;

c. The name of the school the child is attending;

d. In the case of a homeless child or youth within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), available contact information for the child and the name of the school the child is attending;

e. A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

f. A proposed resolution of the problem to the extent known and available to the party at the time.

41.508(3) Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of subrule 41.508(2).

41.508(4) Sufficiency of complaint.

a. General. The due process complaint required by this rule must be deemed sufficient unless the party receiving the due process complaint notifies the administrative law judge and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in subrule 41.508(2).

b. Determination. Within five days of receipt of notification under paragraph 41.508(4)“a,” the administrative law judge must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of subrule 41.508(2) and must immediately notify the parties in writing of that determination.

c. Amending due process complaint. A party may amend its due process complaint only if:

(1) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to rule 281—41.510(256B,34CFR300); or

(2) The administrative law judge grants permission, except that the administrative law judge may only grant permission to amend at any time not later than five days before the due process hearing begins.

d. Timelines after amendment. If a party files an amended due process complaint, the timelines for the resolution meeting in subrule 41.510(1) and the time period to resolve in subrule 41.510(2) begin again with the filing of the amended due process complaint.

41.508(5) LEA response to a due process complaint.

a. General. If the LEA has not sent a prior written notice to the parent regarding the subject matter contained in the parent’s due process complaint, the LEA must, within ten days of receiving the due process complaint, send to the parent a response that includes the following:

(1) An explanation of why the agency proposed or refused to take the action raised in the due process complaint;

(2) A description of other options that the IEP team considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and

(4) A description of the other factors that are relevant to the agency’s proposed or refused action.

b. Rule of construction. A response by an LEA under paragraph 41.508(5)“a” shall not be construed to preclude the LEA from asserting that the parent’s due process complaint was insufficient, where appropriate.

41.508(6) Other party response to a due process complaint. Except as provided in subrule 41.508(5), the party receiving a due process complaint must, within ten days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.509(256B,34CFR300) Model forms.

41.509(1) Forms available. The department shall develop model forms to assist parents and public agencies in filing a due process complaint and to assist parents and other parties in filing a state complaint; however, the department or LEA may not require the use of the model forms.

41.509(2) Use of forms. Parents, public agencies, and other parties may use the appropriate model form described in subrule 41.509(1), or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements in subrule 41.508(2) for filing a due process complaint or the requirements in subrule 41.153(2) for filing a state complaint.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.510(256B,34CFR300) Resolution process.

41.510(1) Resolution meeting.

a. General. Within 15 days of receiving notice of the parent’s due process complaint and prior to the initiation of a due process hearing, the LEA must convene a meeting with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint that:

(1) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and

(2) May not include an attorney of the LEA unless the parent is accompanied by an attorney.

b. Purpose of meeting. The purpose of the meeting is for the parent of the child to discuss the due process complaint and the facts that form the basis of the due process complaint so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint.

c. When meeting not necessary. The meeting described in paragraphs 41.510(1)“a” and “b” need not be held if the parent and the LEA agree in writing to waive the meeting, or the parent and the LEA agree to use the mediation process described in rule 281—41.506(256B,34CFR300).

d. Determining relevant members of IEP team. The parent and the LEA determine the relevant members of the IEP team to attend the meeting.

41.510(2) Resolution period.

a. General. If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.

b. Timeline for decision. Except as provided in subrule 41.510(3), the timeline for issuing a final decision under rule 281—41.515(256B,34CFR300) begins at the expiration of this 30-day period.

c. Failure of parent to participate: delay of timeline. Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

d. Failure of parent to participate: dismissal of complaint. If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented using the procedures in subrule 41.322(4), the LEA may, at the conclusion of the 30-day period, request that the administrative law judge dismiss the parent’s due process complaint.

e. Failure of LEA to hold meeting. If the LEA fails to hold the resolution meeting specified in subrule 41.510(1) within 15 days of receiving notice of a parent’s due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of the administrative law judge to begin the due process hearing timeline.

41.510(3) Adjustments to 30-day resolution period. The 45-day timeline for the due process hearing in subrule 41.515(1) starts the day after one of the following events:

a. Both parties agree in writing to waive the resolution meeting;

b. After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;

c. If all parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later the parent or public agency withdraws from the mediation process.

41.510(4) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs 41.510(1)“a” and “b,” the parties must execute a legally binding agreement that is:

a. Signed by both the parent and a representative of the agency who has the authority to bind the agency; and

b. Enforceable in any state court of competent jurisdiction or in a district court of the United States, or, by the department, including but not limited to through the state complaint process.

41.510(5) Agreement review period. If the parties execute an agreement pursuant to subrule 41.510(4), a party may void the agreement within three business days of the agreement’s execution.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.511(256B,34CFR300) Impartial due process hearing.

41.511(1) General. Whenever a due process complaint is received under this division, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in this chapter.

41.511(2) SEA responsible for conducting the due process hearing. The hearing described in subrule 41.511(1) must be conducted by the department.

41.511(3) Administrative law judge.

a. Minimum qualifications. At a minimum, an administrative law judge:

(1) Must not be an employee of the SEA or the LEA that is involved in the education or care of the child or a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(2) Must possess knowledge of, and the ability to understand, the provisions of the Act, federal and state regulations pertaining to the Act, and legal interpretations of the Act by federal and state courts;

(3) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(4) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

b. Rule of construction. A person who otherwise qualifies to conduct a hearing under 41.511(3) "a" is not an employee of the agency solely because the person is paid by the agency to serve as an administrative law judge.

c. SEA to maintain list of administrative law judges. The department shall keep a list of the persons who serve as administrative law judges. The list must include a statement of the qualifications of each of those persons.

41.511(4) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under subrule 41.508(2), unless each of the other parties agrees otherwise.

41.511(5) Timeline for requesting a hearing. A parent or agency must request an impartial hearing on the due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint.

41.511(6) Exceptions to the timeline. The timeline described in subrule 41.511(5) does not apply to a parent if the parent was prevented from filing a due process complaint due to either of the following:

a. Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or

b. The LEA's withholding of information from the parent that was required under this chapter to be provided to the parent.

281—41.512(256B,34CFR300) Hearing rights.

41.512(1) General. Any party to a hearing conducted pursuant to the rules of this division and Division XII has the right to:

a. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

b. Present evidence and confront, cross-examine, and compel the attendance of witnesses;

c. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

d. Obtain a written or, at the option of the parents, electronic, verbatim record of the hearing; and

e. Obtain written or, at the option of the parents, electronic findings of fact and decisions.

41.512(2) Additional disclosure of information.

a. At least five business days prior to a hearing conducted pursuant to subrule 41.511(1), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

b. An administrative law judge may bar any party that fails to comply with paragraph 41.512(2) "a" from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

41.512(3) Parental rights at hearings. Parents involved in hearings must be given the right to:

a. Have the child who is the subject of the hearing present;

b. Open the hearing to the public; and

c. Have the record of the hearing and the findings of fact and decisions described in paragraphs 41.512(1) “d” and “e” provided at no cost to parents.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.513(256B,34CFR300) Hearing decisions.

41.513(1) Decision of administrative law judge on the provision of FAPE.

a. Subject to paragraph 41.513(1) “b,” an administrative law judge’s determination of whether a child received FAPE must be based on substantive grounds.

b. In matters alleging a procedural violation, an administrative law judge may find that a child did not receive FAPE only if the procedural inadequacies:

(1) Impeded the child’s right to FAPE;

(2) Significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to the parent’s child; or

(3) Caused a deprivation of educational benefit.

c. Nothing in this subrule shall be construed to preclude an administrative law judge from ordering an LEA to comply with procedural requirements under this division.

41.513(2) Reserved.

41.513(3) Separate request for a due process hearing. Nothing in this division shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

41.513(4) Findings and decision to advisory panel and general public. The department, after deleting any personally identifiable information, must:

a. Transmit the findings and decisions referred to in paragraph 41.512(1) “e” to the state advisory panel established under rule 281—41.167(256B,34CFR300); and

b. Make those findings and decisions available to the public.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.514(256B,34CFR300) Finality of decision. A decision made in a hearing conducted pursuant to this division is final, except that any party involved in the hearing may appeal the decision by filing a civil action in state or federal court.

281—41.515(256B,34CFR300) Timelines and convenience of hearings.

41.515(1) Timeline. The public agency must ensure that not later than 45 days after the expiration of the 30-day period under subrule 41.510(2) or the adjusted time periods described in subrule 41.510(3):

a. A final decision is reached in the hearing; and

b. A copy of the decision is mailed to each of the parties.

41.515(2) Reserved.

41.515(3) Extensions of time or continuances. An administrative law judge may grant specific extensions of time or continuances beyond the periods set out in subrule 41.515(1) at the request of either party.

41.515(4) Hearing time. Each hearing must be conducted at a time and place that is reasonably convenient to the parents and child involved.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.516(256B,34CFR300) Civil action.

41.516(1) General. Any party aggrieved by the findings and decision made under this division has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under this division. The action may be brought in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

41.516(2) Time limitation. The party bringing the action shall have 90 days from the date of the decision of the administrative law judge to file a civil action.

41.516(3) Additional requirements. In any action brought under subrule 41.516(1), the court:

a. Receives the records of the administrative proceedings;

- b. Hears additional evidence at the request of a party; and
- c. Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

41.516(4) Jurisdiction of United States district courts. The district courts of the United States have jurisdiction of actions brought under Section 615 of the Act without regard to the amount in controversy.

41.516(5) Rule of construction. Nothing in Part B of the Act or this chapter restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Section 615 of the Act, the procedures under rules 281—41.507(256B,34CFR300) and 281—41.514(256B,34CFR300) must be exhausted to the same extent as would be required had the action been brought under Section 615 of the Act.

281—41.517(256B,34CFR300) Attorneys' fees.

41.517(1) General. In any action or proceeding brought under Section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to any of the following:

- a. The prevailing party who is the parent of a child with a disability;
- b. To a prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or
- c. To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

41.517(2) Prohibition on use of funds.

- a. Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under Section 615 of the Act and this division.
- b. Paragraph 41.517(2) "a" does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under Section 615 of the Act.

41.517(3) Award of fees. A court awards reasonable attorneys' fees under Section 615(i)(3) of the Act consistent with the following:

a. *Amount of fees.* Fees awarded under Section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.

b. *When fees and costs may not be awarded.*

(1) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if:

1. The offer is made within the time prescribed by Rule 68 of the federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

2. The offer is not accepted within ten days; and

3. The court or administrative law judge finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(2) Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the state, for a mediation described in rule 281—41.506(256B,34CFR300).

(3) A meeting conducted pursuant to rule 281—41.510(256B,34CFR300) shall not be considered either of the following:

1. A meeting convened as a result of an administrative hearing or judicial action; or

2. An administrative hearing or judicial action for purposes of this rule.

c. Exception to offer of settlement subrule. Notwithstanding subparagraph 41.517(3)“b”(1), an award of attorneys’ fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

d. Reduction in attorney fees. Except as provided in paragraph 41.517(3)“e,” the court reduces, accordingly, the amount of the attorneys’ fees awarded under Section 615 of the Act, if the court finds that:

(1) The parent, or the parent’s attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(2) The amount of the attorneys’ fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(3) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(4) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with rule 281—41.508(256B,34CFR300).

e. Exception to reduction in fees subrule. The provisions of paragraph 41.517(3)“d” do not apply in any action or proceeding if the court finds that the state or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of Section 615 of the Act.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.518(256B,34CFR300) Child’s status during proceedings.

41.518(1) General. Except as provided in rule 281—41.533(256B,34CFR300), during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under rule 281—41.507(256B,34CFR300), unless the state or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

41.518(2) Initial admission to public school. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

41.518(3) Transition from Part C to Part B. If the complaint involves an application for initial services under this chapter from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has reached the age of three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under subrule 41.300(2), then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.

41.518(4) Administrative law judge decision. If the administrative law judge in a due process hearing conducted by the SEA agrees with the child’s parents that a change of placement is appropriate, that placement must be treated as an agreement between the state and the parents for purposes of subrule 41.518(1).

41.518(5) Mediation requested prior to the filing of a due process complaint. Except as provided in rule 281—41.533(256B,34CFR300), during the pendency of any request for mediation filed prior to or in lieu of a due process complaint under rule 281—41.506(256B,34CFR300) and for ten days after any such mediation conference at which no agreement is reached, unless the state or local agency and the parents of the child agree otherwise, the child involved in any such mediation conference must remain in his or her current educational placement.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.519(256B,34CFR300) Surrogate parents.

41.519(1) General. Each public agency must ensure that the rights of a child are protected when:

- a. No parent as defined in rule 281—41.30(256B,34CFR300) can be identified;
- b. The public agency, after reasonable efforts, cannot locate a parent;

c. The child is a ward of the state under the laws of the state; or
d. The child is an unaccompanied homeless youth as defined in Section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

41.519(2) Duties of public agency. The duties of a public agency under subrule 41.519(1) include the assignment of an individual to act as a surrogate for the parents. This must include a method for determining whether a child needs a surrogate parent and for assigning a surrogate parent to the child.

41.519(3) Wards of the state. In the case of a child who is a ward of the state, the surrogate parent alternatively may be appointed by the judge presiding in the child's case, provided that the surrogate meets the requirements in subparagraph 41.519(4) "b"(1) and subrule 41.519(5).

41.519(4) Criteria for selection of surrogate parents.

a. The public agency may select a surrogate parent in any way permitted under state law.

b. Public agencies must ensure that a person selected as a surrogate parent:

(1) Is not an employee of the SEA, the LEA, or any other public or private agency that is involved in the education or care of the child;

(2) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and

(3) Has knowledge and skills that ensure adequate representation of the child.

41.519(5) Nonemployee requirement; compensation. A person otherwise qualified to be a surrogate parent under subrule 41.519(4) is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

41.519(6) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to subparagraph 41.519(4) "b"(1), until a surrogate parent can be appointed that meets all of the requirements of subrule 41.519(4).

41.519(7) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.

41.519(8) Training of surrogate parents. Training will be conducted as necessary by each AEA using a training procedure approved by the department, which includes rights and responsibilities of a surrogate parent, sample forms used by LEAs and AEAs, specific needs of individuals with disabilities and resources for legal and instructional technical assistance. The department will provide continuing education and assistance to AEAs upon request.

41.519(9) SEA responsibility. The department must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.520(256B,34CFR300) Transfer of parental rights at age of majority.

41.520(1) General. The state provides, when a child with a disability (except for a child with a disability who has been determined to be incompetent under state law) reaches the age of majority under Iowa Code section 599.1, all of the following:

a. General rule.

(1) The public agency must provide any notice required by this chapter to both the child and the parents; and

(2) All rights accorded to parents under Part B of the Act transfer to the child.

b. Special rule: incarcerated eligible individuals. All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, state or local correctional institution.

c. Notice requirement. Whenever a state provides for the transfer of rights under Part B of the Act and this chapter pursuant to paragraph 41.520(1) "a" or "b," the agency must notify the child and the parents of the transfer of rights.

41.520(2) *Special rules.* If a court appoints a guardian for an eligible individual who has attained the age of majority under subrule 41.520(1) and the court determines all decisions shall be made by the guardian or specifically determines all educational decisions should be made by the guardian, then rights under subrule 41.520(1) do not transfer but are exercised pursuant to any applicable orders of the court. If a court determines a child who has attained the age of majority under subrule 41.520(1) does not have capacity to make educational decisions under any other applicable statute, then rights under subrule 41.520(1) do not transfer and are exercised by the child's parent or pursuant to court order. If and when state law provides that a competent authority may determine that an eligible individual who has attained the age of majority under subrule 41.520(1) and who has not been found incompetent by any court under this subrule, the department shall establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if the child can be determined by the competent authority, by clear and convincing evidence, not to have the ability to provide informed consent with respect to the child's educational program.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.521 to 41.529 Reserved.

281—41.530(256B,34CFR300) Authority of school personnel.

41.530(1) *Case-by-case determination.* School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this rule, is appropriate for a child with a disability who violates a code of student conduct.

41.530(2) *General.*

a. School personnel under this rule may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities, and for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement under rule 281—41.536(256B,34CFR300).

b. After a child with a disability has been removed from his or her current placement for ten school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under subrule 41.530(4).

41.530(3) *Additional authority.* For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subrule 41.530(5), school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in subrule 41.530(4).

41.530(4) *Services.*

a. A child with a disability who is removed from the child's current placement pursuant to subrule 41.530(3) or 41.530(7) must receive the following:

(1) Educational services, as provided in subrule 41.101(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(2) As appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

b. The services required by paragraphs 41.530(4) "a" and "c" to "e" may be provided in an interim alternative educational setting.

c. A public agency is required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for ten school days or less in that school year, only if it provides services to a child without disabilities who is similarly removed.

d. After a child with a disability has been removed from his or her current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and is not a change of placement under rule 281—41.536(256B,34CFR300), school personnel, in consultation with at least one of the child’s teachers, shall determine the extent to which services are needed, as provided in subrule 41.101(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.

e. If the removal is a change of placement under rule 281—41.536(256B,34CFR300), the child’s IEP team determines appropriate services under paragraph 41.530(4) “a.”

41.530(5) *Manifestation determination.*

a. Within ten school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the AEA, the LEA, the parent, and relevant members of the child’s IEP team, as determined by the parent and the AEA and LEA, must review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine:

(1) If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or

(2) If the conduct in question was the direct result of the failure by the AEA or LEA to implement the IEP.

b. The conduct must be determined to be a manifestation of the child’s disability if the AEA, the LEA, the parent, and relevant members of the child’s IEP team determine that a condition in either subparagraph 41.530(5) “a”(1) or (2) was met.

c. If the AEA, the LEA, the parent, and relevant members of the child’s IEP team determine the condition described in subparagraph 41.530(5) “a”(2) was met, the public agency must take immediate steps to remedy those deficiencies.

41.530(6) *Determination that behavior was a manifestation.* If the AEA, the LEA, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child’s disability, the IEP team must proceed as follows:

a. Conduct a functional behavioral assessment, unless the AEA or LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan and modify it, as necessary, to address the behavior; and

c. Except as provided in subrule 41.530(7), return the child to the placement from which the child was removed, unless the parent and the public agency agree to a change of placement as part of the modification of the behavioral intervention plan.

41.530(7) *Special circumstances.* School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child’s disability, if the child:

a. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;

b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or

c. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

41.530(8) *Notification.* On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision and provide the parents the procedural safeguards notice described in rule 281—41.504(256B,34CFR300).

41.530(9) *Definitions.* For purposes of this rule, the following definitions apply:

a. Controlled substance. “Controlled substance” means a drug or other substance identified under Schedule I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

b. Illegal drug. “Illegal drug” means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.

c. Serious bodily injury. “Serious bodily injury” has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of Section 1365 of Title 18, United States Code.

d. Weapon. “Weapon” has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of Section 930 of Title 18, United States Code. A “weapon” under Iowa law is not necessarily a weapon for purposes of this rule unless it meets this definition of a “dangerous weapon.” [ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.531(256B,34CFR300) Determination of setting. The child’s IEP team determines the interim alternative educational setting for services under subrule 41.530(3), paragraph 41.530(4) “e,” and subrule 41.530(7).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.532(256B,34CFR300) Appeal.

41.532(1) General. The parent of a child with a disability who disagrees with any decision regarding placement under rules 281—41.530(256B,34CFR300) and 281—41.531(256B,34CFR300), or the manifestation determination under subrule 41.530(5), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to rule 281—41.507(256B,34CFR300) and subrules 41.508(1) and 41.508(2).

41.532(2) Authority of administrative law judge.

a. An administrative law judge under rule 281—41.511(256B,34CFR300) hears and makes a determination regarding an appeal under subrule 41.532(1).

b. In making the determination under subrule 41.532(1), the administrative law judge may do either of the following:

(1) Return the child with a disability to the placement from which the child was removed if the administrative law judge determines that the removal was a violation of rule 281—41.530(256B,34CFR300) or that the child’s behavior was a manifestation of the child’s disability; or

(2) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the administrative law judge determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

c. The procedures under subrule 41.532(1) and paragraphs 41.532(2) “a” and “b” may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

41.532(3) Expedited due process hearing.

a. Whenever a hearing is requested under subrule 41.532(1), the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of rule 281—41.507(256B,34CFR300), subrules 41.508(1) to 41.508(3), and rules 281—41.510(256B,34CFR300) to 281—41.514(256B,34CFR300), except as provided in paragraphs 41.532(3) “b” and “c.”

b. The department is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The administrative law judge must make a determination within ten school days after the hearing.

c. Unless the parents and LEA agree in writing to waive the resolution meeting described in this paragraph, or agree to use the mediation process described in rule 281—41.506(256B,34CFR300), the procedure is as follows:

(1) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and

(2) The due process hearing may proceed unless the matter has been resolved to the satisfaction of all parties within 15 days of the receipt of the due process complaint.

d. Reserved.

e. The decisions on expedited due process hearings are appealable consistent with rule 281—41.514(256B,34CFR300).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.533(256B,34CFR300) Placement during appeals and mediations. When an appeal under rule 281—41.532(256B,34CFR300) or a request for mediation under rules 281—41.506(256B,34CFR300) and 281—41.1002(256B,34CFR300) has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the administrative law judge or until the expiration of the time period specified in subrule 41.530(3) or 41.530(7), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services.

41.534(1) General. A child who has not been determined to be eligible for special education and related services under this chapter and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this chapter if the public agency had knowledge, as determined in accordance with subrule 41.534(2), that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

41.534(2) Basis of knowledge. A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred any of the following occurred:

a. The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the child that the child is in need of special education and related services;

b. The parent of the child requested an evaluation of the child pursuant to this chapter; or

c. The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

41.534(3) Exception. A public agency would not be deemed to have knowledge under subrule 41.534(2) under the following conditions:

a. The parent of the child has not allowed an evaluation of the child pursuant to this chapter or has refused services under Part B of the Act or this chapter; or

b. The child has been evaluated in accordance with this chapter and determined not to be a child with a disability under Part B of the Act and this chapter.

41.534(4) Conditions that apply if no basis of knowledge.

a. General. If a public agency does not have knowledge that a child is a child with a disability, in accordance with subrules 41.534(2) and 41.534(3), prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with paragraph 41.534(4)“*b.*”

b. Request for evaluation.

(1) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under rule 281—41.530(256B,34CFR300), the evaluation must be conducted in an expedited manner.

(2) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

(3) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency must

provide special education and related services in accordance with Part B of the Act and this chapter, including the requirements of rules 281—41.530(256B,34CFR300) to 281—41.536(256B,34CFR300) and Section 612(a)(1)(A) of the Act.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities.

41.535(1) Rule of construction. Nothing in Part B of the Act or this chapter prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

41.535(2) Transmittal of records.

a. An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

b. An agency reporting a crime under this rule may transmit copies of the child’s special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act, such as by obtaining consent (34 CFR Section 99.30) or in instances where disclosure without consent is permitted (34 CFR Section 99.31).

281—41.536(256B,34CFR300) Change of placement because of disciplinary removals.

41.536(1) General. For purposes of removals of a child with a disability from the child’s current educational placement under rules 281—41.530(256B,34CFR300) to 281—41.535(256B,34CFR300), a change of placement occurs under the following circumstances:

a. The removal is for more than ten consecutive school days; or

b. The child has been subjected to a series of removals that constitute a pattern based on the following:

(1) The series of removals total more than ten school days in a school year;

(2) The child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and

(3) Additional factors, such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

41.536(2) Rules of construction.

a. The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

b. This determination is subject to review through due process and judicial proceedings.

c. Nothing in this rule shall be construed to prohibit LEAs from establishing policies that a change of placement occurs on the eleventh cumulative day of removal, regardless of the factors set forth in paragraph 41.536(1) “*b.*”

41.536(3) In-school suspensions and other actions. In determining whether an in-school suspension or other disciplinary action is to be considered a removal for purposes of this rule, an in-school suspension or other disciplinary action will not be considered a removal if all three of the following questions are answered in the affirmative:

a. Will the child be able to appropriately participate in the general education curriculum?

b. Will the child be able to receive the services specified in the child’s IEP?

c. Will the child be able to participate with children without disabilities to the extent provided in the child’s current placement?

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.537(256B,34CFR300) State enforcement mechanisms. Notwithstanding paragraphs 41.506(2) “*g.*” and 41.510(4) “*b.*,” which provide for judicial enforcement of a written agreement reached as a result of mediation or a resolution meeting, there is nothing in Part B of the Act that would prevent the department from using other mechanisms to seek enforcement of that agreement, such as the state complaint procedure, provided that use of those mechanisms is not mandatory and does not delay

or deny a party the right to seek enforcement of the written agreement in a state court of competent jurisdiction or in a district court of the United States.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.538 to 41.599 Reserved.

DIVISION VIII
MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

281—41.600(256B,34CFR300) State monitoring and enforcement.

41.600(1) General. The state must monitor the implementation of Part B of the Act and this chapter, enforce this chapter in accordance with rule 281—41.604(256B,34CFR300), and annually report on performance under Part B of the Act and this chapter.

41.600(2) Primary focus of monitoring activity. The primary focus of the state's monitoring activities must be on the following:

- a. Improving educational results and functional outcomes for all children with disabilities; and
- b. Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

41.600(3) Indicators of performance and compliance. As a part of its responsibilities under subrule 41.600(1), the state must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in subrule 41.600(4) and the indicators established by the Secretary for the state performance plans.

41.600(4) Priority indicators. The state must monitor the LEAs located in the state, using quantifiable indicators in each of the following priority areas and using such qualitative indicators as are needed to adequately measure performance in those areas:

- a. Provision of FAPE in the least restrictive environment.
- b. State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in rule 281—41.43(256B,34CFR300) and in 20 U.S.C. 1437(a)(9).
- c. Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

41.600(5) Correction of noncompliance. In exercising its monitoring responsibilities under subrule 41.600(4), the state must ensure that when it identifies noncompliance with the requirements of this chapter by an LEA, the noncompliance is corrected as soon as possible, but in no case later than one year after the state's identification of the LEA's noncompliance.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.601(256B,34CFR300) State performance plans and data collection.

41.601(1) General. Each state must have in place a performance plan that evaluates the state's efforts to implement the requirements and purposes of Part B of the Act and describes how the state will improve such implementation.

- a. Each state must submit the state's performance plan to the Secretary for approval in accordance with the approval process described in Section 616(c) of the Act.
- b. Each state must review its state performance plan at least once every six years and submit any amendments to the Secretary.
- c. As part of the state performance plan, each state must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in 34 CFR Section 300.600(d).

41.601(2) Data collection.

- a. The state must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the state performance plans.

b. If the Secretary permits states to collect data on specific indicators through state monitoring or sampling, and the state collects the data through state monitoring or sampling, the state must collect data on those indicators for each LEA at least once during the period of the state performance plan.

281—41.602(256B,34CFR300) State use of targets and reporting.

41.602(1) General. The state shall use the targets established in the state's performance plan under rule 281—41.601(256B,34CFR300) and the priority areas described in subrule 41.600(4) to analyze the performance of each LEA.

41.602(2) Public reporting and privacy.

a. Public report. The state must:

(1) Report annually to the public on the performance of each LEA located in the state on the targets in the state's performance plan as soon as practicable but no later than 120 days following the state's submission of its annual performance report under paragraph 41.602(2) "b"; and

(2) Make the state's performance plan, the state's annual performance reports, and annual reports on the performance of each LEA located in the state available through public means, including, at a minimum, by posting these documents on the website of the department, distribution to the media, and distribution through public agencies.

(3) If the state collects performance data through state monitoring or sampling, the state must include in its report under subparagraph 41.602(2) "a"(1) the most recently available performance data on each LEA, and the date the data were obtained.

b. State performance report. The state shall report annually to the Secretary on the performance of the state under the state's performance plan.

c. Privacy. The state shall not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children or where the available data are insufficient to yield statistically reliable information.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.603(256B,34CFR300) Department review and determination regarding public agency performance.

41.603(1) Review. The state shall annually review the performance of each LEA and AEA, including but not limited to data on indicators identified in the state's performance plan, information obtained through monitoring visits, and any other public information made available.

41.603(2) Determination. Based on the information obtained and reviewed by the state, the state shall determine whether each LEA and AEA:

a. Meets the requirements and purposes of Part B of the Act and of this chapter;

b. Needs assistance in implementing the requirements of Part B of the Act and of this chapter;

c. Needs intervention in implementing the requirements of Part B of the Act and of this chapter;

or

d. Needs substantial intervention in implementing the requirements of Part B of the Act and of this chapter.

41.603(3) Criteria for determination. The department shall develop criteria for making the determinations required by subrule 41.603(2).

41.603(4) Variance of determination. In making the determination required by subrule 41.603(2), the SEA in its discretion may adjust or vary from the criteria described in subrule 41.603(3) based on unusual, unanticipated, or extraordinary aggravating or mitigating factors, on a case-by-case basis.

41.603(5) Notice and opportunity for a hearing. For determinations made under paragraph 41.603(2) "a" or "b," the state shall provide reasonable notice of its determination. For determinations made under paragraph 41.603(2) "c" or "d," the state shall provide reasonable notice of its determination and may, in its sound discretion, grant an informal hearing to an AEA or LEA; however, if withholding of funds is a remedy associated with a particular determination, the state shall provide a hearing under rule 281—41.605(256B,34CFR300). Under any hearing granted under this rule or rule

281—41.605(256B,34CFR300), the AEA or LEA must demonstrate that the state abused its discretion in making the determination described in subrule 41.603(2).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.604(256B,34CFR300) Enforcement.

41.604(1) Needs assistance. If the state determines for two consecutive years that an LEA or AEA needs assistance under paragraph 41.603(2)“b” in implementing the requirements of Part B of the Act, the state shall take one or more of the following actions:

a. Advise the LEA or AEA of available sources of technical assistance that may help the LEA or AEA to address the areas in which it needs assistance, which may include assistance from the Iowa department of education, other state agencies, technical assistance providers approved by the Secretary, and other federally funded and state-funded nonprofit agencies, and require it to work with appropriate entities. Such technical assistance may include any of the following:

(1) The provision of advice by experts to address the areas in which the LEA or AEA needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

(2) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(3) Designating and using distinguished superintendents, principals, special education administrators, special education teachers and other teachers to provide advice, technical assistance, and support; and

(4) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance.

b. Identify the LEA or AEA as a high-risk grantee and impose special conditions on its grant under Part B of the Act.

41.604(2) Needs intervention. If the state determines for three or more consecutive years that an LEA or AEA needs intervention under paragraph 41.603(2)“c” in implementing the requirements of Part B of the Act, the following shall apply:

a. The state may take any of the actions described in subrule 41.604(1).

b. The state shall take one or more of the following actions:

(1) Require the LEA or AEA to prepare a corrective action plan or improvement plan if the state determines that the LEA or AEA should be able to correct the problem within one year.

(2) Withhold, in whole or in part, any further payments to the AEA or LEA under Part B of the Act.

41.604(3) Needs substantial intervention. Notwithstanding subrule 41.604(1) or 41.604(2), at any time that the state determines that an LEA or AEA needs substantial intervention in implementing the requirements of Part B of the Act or of this chapter or that there is a substantial failure to comply with any condition of an LEA’s eligibility or an AEA’s eligibility under Part B of the Act or this chapter, the state shall take one or more of the following actions:

a. Withhold, in whole or in part, any further payments to the LEA or AEA under Part B of the Act.

b. Refer the matter for appropriate enforcement action, which may include referral to the Iowa department of justice or the auditor of state.

41.604(4) Rule of construction. The listing of specific enforcement mechanisms in this rule shall not be construed to limit the enforcement mechanisms at the state’s disposal in its enforcement of this rule or any other rule in this chapter.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.605(256B,34CFR300) Withholding funds.

41.605(1) General. As a consequence of a determination made under rule 281—41.603(256B,34CFR300) or enforcement of any provision of Part B of the Act and this chapter, the state may withhold some or all of the funds from an AEA or LEA or a program or service of an AEA or LEA, or may direct an AEA to withhold all or some funds from an LEA or a program or service of an LEA.

41.605(2) *Hearing.* If the state intends to withhold funds, the state shall provide notice and an opportunity for a hearing to the AEA or LEA. If a hearing is requested, the state may suspend payments to an AEA or LEA, or suspend the authority of the AEA or LEA to obligate funds, or both, until a decision is made after the hearing. A hearing under this rule, which shall not be a contested case under Iowa Code chapter 17A, shall be requested within 30 days of notice of withholding by requesting a hearing before the director of the Iowa department of education or the director's designee. The presiding officer at the hearing shall consider the purposes of Part B of the Act and of this chapter and shall determine whether the state abused its discretion in its decision under subrule 41.605(1).

41.605(3) *Reinstatement.* If the LEA or AEA substantially rectifies the condition that prompted the initial withholding under subrule 41.605(1), then the state may reinstate payments to the LEA or AEA. If an LEA or AEA disagrees with the state's decision that it has not substantially rectified the condition that prompted the initial withholding under subrule 41.605(1), the LEA or AEA may request a hearing under subrule 41.605(2).

281—41.606(256B,34CFR300) Public attention. Any LEA or AEA that has received notice under paragraph 41.603(2) "b," "c," or "d" must, by means of a public notice, take such measures as may be necessary to notify the public within the LEA or AEA of such notice and of the pendency of an action taken pursuant to rule 281—41.604(256B,34CFR300).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.607 Reserved.

281—41.608(256B,34CFR300) State enforcement.

41.608(1) *Prohibition on reduction of maintenance of effort.* If the state determines that an LEA or AEA is not meeting the requirements of Part B of the Act, including the targets in the state's performance plan, the state must prohibit the LEA or AEA from reducing its maintenance of effort under rule 281—41.203(256B,34CFR300) for any fiscal year.

41.608(2) *Rule of construction.* Nothing in this chapter shall be construed to restrict the state from utilizing any other authority available to it to monitor and enforce the requirements of Part B of the Act or of this chapter.

281—41.609(256B,34CFR300) State consideration of other state or federal laws. In making the determinations required by rule 281—41.603(256B,34CFR300), in ordering actions pursuant to rule 281—41.604(256B,34CFR300), and in taking any other action under this chapter, the department may consider whether any agency has complied with any other applicable state or federal law, including but not limited to education law or disability law, or with any corrective action ordered by any competent authority for violation of any such law.

281—41.610(256B,34CFR300) Confidentiality. The state shall take appropriate action, in accordance with Section 444 of the General Education Provisions Act, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the state and by LEAs and AEAs pursuant to Part B of the Act and this chapter, and consistent with rules 281—41.611(256B,34CFR300) to 281—41.626(256B,34CFR300).

281—41.611(256B,34CFR300) Definitions. The following definitions apply to rules 281—41.611(256B,34CFR300) to 281—41.625(256B,34CFR300).

"Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

"Education records" means the type of records covered under the definition of "education records" in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

“*Participating agency*” means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act or this chapter. [ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.612(256B,34CFR300) Notice to parents.

41.612(1) General. The department must give notice that is adequate to fully inform parents about the requirements of rule 281—41.123(256B,34CFR300), including the following information:

- a. A description of the extent that the notice is given in the native languages of the various population groups in the state;
- b. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;
- c. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
- d. A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR Part 99.

41.612(2) Media announcements required. Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of the activity.

281—41.613(256B,34CFR300) Access rights.

41.613(1) General. Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this chapter. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, any hearing pursuant to rule 281—41.507(256B,34CFR300) or rules 281—41.530(256B,34CFR300) to 281—41.532(256B,34CFR300), or any resolution session pursuant to rule 281—41.510(256B,34CFR300), and in no case more than 45 days after the request has been made.

41.613(2) Extent of right to inspect and review. The right to inspect and review education records under this rule includes the following:

- a. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
- b. The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
- c. The right to have a representative of the parent inspect and review the records.

41.613(3) Who may inspect and review. An agency may presume that the parent has authority to inspect and review records relating to the parent’s child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.614(256B,34CFR300) Record of access. Each participating agency must keep a record of parties that obtain access to education records collected, maintained, or used under Part B of the Act, except access by parents and authorized employees of the participating agency, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

281—41.615(256B,34CFR300) Records on more than one child. If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

281—41.616(256B,34CFR300) List of types and locations of information. Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

281—41.617(256B,34CFR300) Fees.

41.617(1) Fees for copies in certain circumstances. Each participating agency may charge a fee for copies of records that are made for parents under this chapter if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

41.617(2) No fees permitted for record retrieval. A participating agency may not charge a fee to search for or to retrieve information under this chapter.

281—41.618(256B,34CFR300) Amendment of records at parent's request.

41.618(1) Parent may request amendment. A parent who believes that information in the education records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.

41.618(2) Agency to act on parent's request. The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

41.618(3) Agency to inform parent of hearing rights. If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under rule 281—41.619(256B,34CFR300).

281—41.619(256B,34CFR300) Opportunity for a hearing. The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

281—41.620(256B,34CFR300) Result of hearing.

41.620(1) Information to be amended. If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing.

41.620(2) Information not to be amended. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

41.620(3) Explanation placed in student records. Any explanation placed in the records of the child under this rule must be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and, if the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

281—41.621(256B,34CFR300) Hearing procedures. A hearing held under rule 281—41.619(256B,34CFR300) must be conducted according to the procedures in 34 CFR 99.22.

281—41.622(256B,34CFR300) Consent.

41.622(1) When parental consent required. Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with subrule 41.622(2), unless the information is contained in education records and the disclosure is authorized without parental consent under 34 CFR Part 99.

41.622(2) When parental consent not required. Except as provided in subrules 41.622(3) and 41.622(4), parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this chapter.

41.622(3) Parental consent required related to transition. Parental consent, or the consent of an eligible child who has reached the age of majority under state law, must be obtained before personally

identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with paragraph 41.321(2)“c.”

41.622(4) *Parental consent required relating to students enrolled in certain private schools.* If a child is enrolled or is going to enroll in a private school that is not located in the LEA and AEA of the parent’s residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA and AEA where the private school is located and officials in the LEA and AEA of the parent’s residence.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.623(256B,34CFR300) Safeguards. Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state’s policies and procedures under rule 281—41.123(256B,34CFR300) and 34 CFR Part 99. Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

281—41.624(256B,34CFR300) Destruction of information.

41.624(1) *Parents to be informed when information no longer required.* The public agency must inform parents when personally identifiable information collected, maintained, or used under Part B of the Act or this chapter is no longer needed to provide educational services to the child.

41.624(2) *Mandatory and permissive destruction of information.* The information must be destroyed at the request of the parents. However, a permanent record of a student’s name, address, and telephone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. This permanent record must contain the information required by rule 281—12.3(256).

41.624(3) *Rule of construction—no longer needed to provide educational services to the child.* For purposes of this rule, “no longer needed to provide educational services” means that a record is no longer relevant to the provision of instructional, support, or related services and it is no longer needed for accountability and audit purposes. At a minimum, a record needed for accountability and audit purposes must be retained for five years after completion of the activity for which funds were used.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.625(256B,34CFR300) Children’s rights.

41.625(1) *General.* The state must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

41.625(2) *Transfer of rights under FERPA.* Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at the age of 18.

41.625(3) *Transfer of rights under Part B of the Act.* If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with rule 281—41.520(256B,34CFR300), the rights regarding educational records in rules 281—41.613(256B,34CFR300) to 281—41.624(256B,34CFR300) must also be transferred to the student. However, the public agency must provide any notice required under Section 615 of the Act to the student and the parents.

281—41.626(256B,34CFR300) Enforcement. The state must have in effect policies and procedures, including sanctions that the state uses, to ensure that its policies and procedures consistent with rules 281—41.611(256B,34CFR300) to 281—41.625(256B,34CFR300) are followed and that the requirements of the Act and the rules in this chapter are met.

281—41.627 to 41.639 Reserved.

281—41.640(256B,34CFR300) Annual report of children served—report requirement. The SEA must annually report to the Secretary on the information required by Section 618 of the Act at the times specified by the Secretary, and on forms provided by the Secretary.

281—41.641(256B,34CFR300) Annual report of children served—information required in the report.

41.641(1) *Date of count.* For purposes of the annual report required by Section 618 of the Act and rule 281—41.640(256B,34CFR300), the state and the Secretary of the Interior must count and report the number of children with disabilities receiving special education and related services on any date between October 1 and December 1 of each year.

41.641(2) *Child's age.* For the purpose of this reporting provision, a child's age is the child's actual age on the date of the child count.

41.641(3) *Count each child under only one disability category.* The SEA may not report a child under more than one disability category.

41.641(4) *Child with more than one disability.* If a child with a disability has more than one disability, the SEA must report that child in accordance with the following procedure:

a. If a child has only two disabilities and those disabilities are deafness and blindness, and the child is not reported as having a developmental delay, that child must be reported under the category "deaf-blindness."

b. A child who has more than one disability and is not reported as having deaf-blindness or as having a developmental delay must be reported under the category "multiple disabilities."

281—41.642(256B,34CFR300) Data reporting.

41.642(1) *Protection of personally identifiable data.* The data described in Section 618(a) of the Act and in rule 281—41.641(256B,34CFR300) must be publicly reported by each state in a manner that does not result in disclosure of data identifiable to individual children.

41.642(2) *Sampling permitted.* The Secretary permits the SEA to obtain data in Section 618(a) of the Act through sampling.

281—41.643(256B,34CFR300) Annual report of children served—certification. The SEA must include in its report a certification signed by an authorized official of the agency that the information provided under rule 281—41.640(256B,34CFR300) is an accurate and unduplicated count of children with disabilities receiving special education and related services on the dates in question.

281—41.644(256B,34CFR300) Annual report of children served—criteria for counting children. The SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that provides them with both special education and related services that meet state standards; provides them only with special education, if a related service is not required, that meets state standards; or, in the case of children with disabilities enrolled by their parents in private schools, counts those children who are eligible under the Act and receive special education or related services or both that meet state standards under rules 281—41.132(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300).

281—41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA. In addition to meeting the other requirements of rules 281—41.640(256B,34CFR300) to 281—41.644(256B,34CFR300), the SEA must establish procedures to be used by LEAs and other educational institutions in counting the number of children with disabilities receiving special education and related services; set dates by which those agencies and institutions must report to the SEA to ensure that the state complies with rule 281—41.640(256B,34CFR300); obtain certification from each agency and institution that an unduplicated and accurate count has been made; aggregate the data from the count obtained from each agency and institution, and prepare the reports required under rules 281—41.640(256B,34CFR300) to 281—41.644(256B,34CFR300); and ensure that documentation is maintained that enables the state and the Secretary to audit the accuracy of the count.

281—41.646(256B,34CFR300) Disproportionality.

41.646(1) General. Using the methodology required by rule 281—41.647(256B,34CFR300), the state shall collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the state and the LEAs of the state with respect to the following:

a. The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in Section 602(3) of the Act;

b. The placement in particular educational settings of these children; and

c. The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

41.646(2) Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, or the incidence, duration, and type of disciplinary actions, in accordance with subrule 41.646(1) and rule 281—41.647(256B,34CFR300), the state must proceed as follows:

a. Provide for the annual review and, if appropriate, revision of the policies, procedures, and practices used in the identification, placement, or disciplinary actions to ensure that the policies, procedures, and practices comply with the requirements of the Act; and

b. Require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph 41.646(2) “*a*” in a manner consistent with the requirements of the Family Educational Rights and Privacy Act, its implementing regulations in 34 CFR Part 99, and Section 618(b)(1) of the Act.

41.646(3) Comprehensive coordinated early intervening services. Except as provided in subrule 41.646(4), any LEA identified under subrule 41.646(1) shall reserve the maximum amount of funds under Section 613(f) of the Act to provide comprehensive coordinated early intervening services to address factors contributing to the significant disproportionality.

a. In implementing comprehensive coordinated early intervening services, an LEA:

(1) May carry out activities that include professional development and educational and behavioral evaluations, services, and supports.

(2) Must identify and address the factors contributing to the significant disproportionality, which may include, among other identified factors, a lack of access to scientifically based instruction; economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings; inappropriate use of disciplinary removals; lack of access to appropriate diagnostic screenings; differences in academic achievement levels; and policies, practices, or procedures that contribute to the significant disproportionality.

(3) Must address a policy, practice, or procedure it identifies as contributing to the significant disproportionality, including a policy, practice or procedure that results in a failure to identify, or the inappropriate identification of, a racial or ethnic group (or groups).

b. An LEA may use funds reserved for comprehensive coordinated early intervening services to serve children from age 3 through grade 12, particularly, but not exclusively, children in those groups that were significantly over identified under subrule 41.646(1), including:

(1) Children who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment; and

(2) Children with disabilities.

c. An LEA may not limit the provision of comprehensive coordinated early intervening services under this subrule to children with disabilities.

41.646(4) Exception to comprehensive coordinated early intervening services. The state shall not require any LEA that serves only children with disabilities identified under subrule 41.646(1) to reserve funds to provide comprehensive coordinated early intervening services.

41.646(5) Rule of construction. Nothing in this rule authorizes the state or an LEA to develop or implement policies, practices, or procedures that result in actions that violate the requirements of this

chapter, including requirements related to child find and ensuring that a free appropriate public education is available to all eligible children with disabilities.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.647(256B,34CFR300) Determining significant disproportionality.

41.647(1) Definitions.

“*Alternate risk ratio*” is a calculation performed by dividing the risk of a particular outcome for children in one racial or ethnic group within an LEA by the risk of that outcome for children in all other racial or ethnic groups in the state.

“*Comparison group*” consists of the children in all other racial or ethnic groups within an LEA or within the state, when reviewing a particular racial or ethnic group within an LEA for significant disproportionality.

“*Minimum cell size*” is the minimum number of children experiencing a particular outcome, to be used as the numerator when calculating either the risk for a particular racial or ethnic group or the risk for children in all other racial or ethnic groups.

“*Minimum n-size*” is the minimum number of children enrolled in an LEA with respect to identification, and the minimum number of children with disabilities enrolled in an LEA with respect to placement and discipline, to be used as the denominator when calculating either the risk for a particular racial or ethnic group or the risk for children in all other racial or ethnic groups.

“*Risk*” is the likelihood of a particular outcome (identification, placement, or disciplinary removal) for a specified racial or ethnic group (or groups), calculated by dividing the number of children from a specified racial or ethnic group (or groups) experiencing that outcome by the total number of children from that racial or ethnic group or groups enrolled in the LEA.

“*Risk ratio*” is a calculation performed by dividing the risk of a particular outcome for children in one racial or ethnic group within an LEA by the risk for children in all other racial and ethnic groups within the LEA.

“*Risk ratio threshold*” is a threshold, determined by the state, over which disproportionality based on race or ethnicity is significant under subrule 41.646(1).

41.647(2) Significant disproportionality determinations. In determining whether significant disproportionality exists in the state or LEA under subrule 41.646(1), the state must do all of the following:

a. General. The state must set a:

- (1) Reasonable risk ratio threshold;
- (2) Reasonable minimum cell size;
- (3) Reasonable minimum n-size; and
- (4) Standard for measuring reasonable progress if the state uses the flexibility described in paragraph 41.647(4) “b.”

b. Flexibility. The state may, but is not required to, set the standards set forth in paragraph 41.647(2) “a” at different levels for each of the categories described in paragraphs 41.647(2) “f” and 41.647(2) “g.”

c. Development and review of standards. The standards set forth in paragraph 41.647(2) “a”:

- (1) Must be based on advice from stakeholders, including state advisory panels, as provided under Section 612(a)(21)(D)(iii) of the Act; and
- (2) Are subject to monitoring and enforcement for reasonableness by the Secretary consistent with Section 616 of the Act.

d. Presumption of reasonability. When monitoring for reasonableness under subparagraph 41.647(2) “c”(2), the following are presumptively reasonable:

- (1) A minimum cell size under subparagraph 41.647(2) “a”(2) no greater than ten; and
- (2) A minimum n-size under subparagraph 41.647(2) “a”(3) no greater than 30.

e. Application. The state must apply the risk ratio threshold or thresholds determined in paragraph 41.647(2) “a” to risk ratios or alternate risk ratios, as appropriate, in each category described in paragraphs 41.647(2) “f” and 41.647(2) “g” and the following racial and ethnic groups:

- (1) Hispanic/Latino of any race; and, for individuals who are non-Hispanic/Latino only;
- (2) American Indian or Alaska Native;
- (3) Asian;
- (4) Black or African American;
- (5) Native Hawaiian or Other Pacific Islander;
- (6) White; and
- (7) Two or more races.

f. Calculation of risk ratio: identification. Except as provided in paragraph 41.647(2)“h” and subrule 41.647(3), the state must calculate the risk ratio for each LEA, for each racial and ethnic group in paragraph 41.647(2)“e” with respect to:

- (1) The identification of children ages 3 through 21 as children with disabilities; and
- (2) The identification of children ages 3 through 21 as children with the following impairments:
 1. Intellectual disabilities;
 2. Specific learning disabilities;
 3. Emotional disturbance;
 4. Speech or language impairments;
 5. Other health impairments; and
 6. Autism.

g. Calculation of risk ratio: placement and disciplinary removals. Except as provided in paragraph 41.647(2)“h” and subrule 41.647(3), the state must calculate the risk ratio for each LEA, for each racial and ethnic group in paragraph 41.647(2)“e” with respect to the following placements into particular educational settings, including disciplinary removals:

- (1) For children with disabilities ages 6 through 21, inside a regular class less than 40 percent of the day;
- (2) For children with disabilities ages 6 through 21, inside separate schools and residential facilities, not including homebound or hospital settings, correctional facilities, or private schools;
- (3) For children with disabilities ages 3 through 21, out-of-school suspensions and expulsions of ten days or fewer;
- (4) For children with disabilities ages 3 through 21, out-of-school suspensions and expulsions of more than ten days;
- (5) For children with disabilities ages 3 through 21, in-school suspensions of ten days or fewer;
- (6) For children with disabilities ages 3 through 21, in-school suspensions of more than ten days; and
- (7) For children with disabilities ages 3 through 21, disciplinary removals in total, including in-school and out-of-school suspensions, expulsions, removals by school personnel to an interim alternative education setting, and removals by a hearing officer.

h. Alternate risk ratio. The state must calculate an alternate risk ratio with respect to the categories described in paragraphs 41.647(2)“f” and 41.647(2)“g” if the comparison group in the LEA does not meet the minimum cell size or the minimum n-size.

i. Identification as having significant disproportionality. Except as provided in subrule 41.647(4), the state must identify as having significant disproportionality based on race or ethnicity under subrule 41.646(1) any LEA that has a risk ratio or alternate risk ratio for any racial or ethnic group in any of the categories described in paragraphs 41.647(2)“f” and 41.647(2)“g” that exceeds the risk ratio threshold set by the state for that category.

j. Reporting under this subrule to the Secretary. The state must report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, and standards for measuring reasonable progress selected under subparagraphs 41.647(2)“a”(1) through 41.647(2)“a”(4), and the rationales for each, to the U.S. Department of Education at a time and in a manner determined by the Secretary. Rationales for minimum cell sizes and minimum n-sizes not presumptively reasonable under paragraph 41.647(2)“d” must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the state is appropriately analyzing and identifying LEAs with significant disparities, based on race and ethnicity, in the identification, placement, or discipline of children with disabilities.

41.647(3) Exception. The state is not required to calculate a risk ratio or alternate risk ratio, as outlined in paragraphs 41.647(2) “f,” 41.647(2) “g,” and 41.647(2) “h,” to determine significant disproportionality if:

a. The particular racial or ethnic group being analyzed does not meet the minimum cell size or minimum n-size; or

b. In calculating the alternate risk ratio under paragraph 41.647(2) “h,” the comparison group in the state does not meet the minimum cell size or minimum n-size.

41.647(4) Flexibility. The state is not required to identify an LEA as having significant disproportionality based on race or ethnicity under subrule 41.646(1) until:

a. The LEA has exceeded a risk ratio threshold set by the state for a racial or ethnic group in a category described in paragraphs 41.647(2) “f” and 41.647(2) “g” for up to three prior consecutive years preceding the identification; and

b. The LEA has exceeded the risk ratio threshold and has failed to demonstrate reasonable progress, as determined by the state, in lowering the risk ratio or alternate risk ratio for the group and category in each of the two prior consecutive years.

41.647(5) Rule of construction. Nothing in this rule shall be construed to require identification or classification of any child by impairment.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.648 to 41.699 Reserved.

DIVISION IX
RESERVED

281—41.700 to 41.799 Reserved.

DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

281—41.800(256B,34CFR300) General rule. The Secretary provides grants under Section 619 of the Act to assist states to provide special education and related services in accordance with Part B of the Act to children with disabilities aged three through five years; and, at a state’s discretion, to two-year-old children with disabilities who will turn three during the school year.

281—41.801 to 41.803 Reserved.

281—41.804(256B,34CFR300) Eligibility. A state is eligible for a grant under Section 619 of the Act if the state is eligible under Section 612 of the Act to receive a grant under Part B of the Act and makes FAPE available to all children with disabilities, aged three through five, residing in the state.

281—41.805 Reserved.

281—41.806(256B,34CFR300) Eligibility for financial assistance. No state or LEA, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under Subpart 2 or 3 of Part D of the Act that relates exclusively to programs, projects, and activities pertaining to children aged three through five years, unless the state is eligible to receive a grant under Section 619(b) of the Act.

281—41.807 to 41.812 Reserved.

281—41.813(256B,34CFR300) State administration.

41.813(1) General. For the purpose of administering Section 619 of the Act, including the coordination of activities under Part B of the Act with and providing technical assistance to other programs that provide services to children with disabilities, the state may use not more than 20 percent

of the maximum amount the state may reserve under rule 281—41.812(256B,34CFR300) for any fiscal year.

41.813(2) *Use for administering Part C.* Funds described in subrule 41.813(1) may also be used for the administration of Part C of the Act.

281—41.814(256B,34CFR300) Other state-level activities. The state must use any funds the state reserves under rule 281—41.812(256B,34CFR300) and does not use for administration under rule 281—41.813(256B,34CFR300) for other state-level activities, consistent with 34 CFR Section 300.814.

281—41.815(256B,34CFR300) Subgrants to AEAs. The state shall make subgrants to AEAs consistent with 34 CFR Section 300.815.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.816(256B,34CFR300) Allocations to AEAs. The state must allocate to AEAs the amount described in rule 281—41.815(256B,34CFR300), consistent with 34 CFR Section 300.816.

281—41.817(256B,34CFR300) Reallocation of AEA funds. The state shall reallocate AEA funds under conditions listed and in a manner specified by 34 CFR Section 300.817.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.818(256B,34CFR300) Part C of the Act inapplicable. Part C of the Act does not apply to any child with a disability receiving FAPE, in accordance with Part B of the Act, with funds received under Section 619 of the Act.

281—41.819 to 41.899 Reserved.

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

281—41.900 Reserved.

281—41.901(256B,282) Records and reports. Each agency shall maintain sufficient records and reports for audit by the department. Records and reports shall include at a minimum: licensure (certification) and endorsements or recognition requirements for all special education personnel under rules 281—41.401(256B,34CFR300) to 281—41.403(256B); all IEP and IFSP meetings and three-year reevaluations for each eligible individual; and data required for federal and state reporting.

281—41.902(256B,282) Audit. The department reserves the right to audit the records of any agency providing special education for eligible individuals and utilizing funds generated under Iowa Code chapters 256B, 273 and 282.

281—41.903(256B,282) Contractual agreements.

41.903(1) General. Any special education instructional program not provided directly by an LEA or any special education support service not provided by an AEA can only be provided through a contractual agreement. The board shall approve contractual agreements for AEA-operated special education instructional programs and contractual agreements permitting special education support services to be provided by agencies other than the AEA.

41.903(2) Specific requirements. Each agency contracting with other agencies to provide special education and related services for individuals or groups of individuals maintain responsibility for individuals receiving such special education and related services by:

a. Ensuring that all the requirements related to the development of each eligible individual's IEP are met.

b. Requiring and reviewing periodic progress reports to ensure the adequacy and appropriateness of the special education and related services provided.

c. Conditioning payments on delivery of special education and related services in accordance with the eligible individual's IEP and in compliance with these rules.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.904(256B) Research and demonstration projects and models for special education program development. Applications for aid, whether provided directly from state or federal funds, for special education research and demonstration projects and models for program development shall be submitted to the department.

281—41.905(256B,273) Additional special education. Additional special education made available through the provisions of Iowa Code section 273.3 will be furnished in a manner consistent with these rules.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.906(256B,273,282) Extended school year services. Approved extended school year programs for special education support services, when provided by the AEA for eligible individuals, will be funded through procedures as provided for special education support services. Approved extended school year instructional programs will be funded through procedures as provided for special education instructional programs.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.907(256B,282,34CFR300,303) Program costs.

41.907(1) Nonresident individual. Subject to subrule 41.131(6), the program costs charged by an LEA or an AEA for an instructional program for a nonresident eligible individual shall be the actual costs incurred in providing that program.

41.907(2) Contracted special education. An AEA or LEA may make provisions for resident eligible individuals through contracts with public or private agencies that provide appropriate and approved special education. The program costs charged by or paid to a public or private agency for special education instructional programs shall be the actual costs incurred in providing that program.

41.907(3) LEA responsibility. The resident LEA shall be liable only for instructional costs incurred by an agency for those individuals certified as eligible in accordance with these rules unless required by 34 CFR Section 300.104.

41.907(4) Support service funds. Support service funds may not be utilized to supplement any special education programs authorized to use special education instructional funds generated through the weighting plan.

41.907(5) Responsibility for special education for children living in a foster care facility or treatment facility.

a. Eligible individuals who are living in a licensed individual or agency child foster care facility, as defined in Iowa Code section 237.1, or in an unlicensed relative foster care placement shall remain enrolled in and attend an accredited school in the school district in which the child resided and is enrolled at the time of placement, unless it is determined by the juvenile court or a public or private agency of this state that has responsibility for the child's placement that remaining in such school is not in the best interests of the child. If such a determination is made, the child may be enrolled in the district in which the child is placed and not in the district in which the child resided prior to receiving foster care. The costs of the special education required by this chapter shall be paid, in either case, by the school district of residence of the eligible individual.

b. For eligible individuals who are living in a facility as defined in Iowa Code section 125.2, the LEA in which the facility is located must provide special education if the facility does not maintain a school. The costs of the special education shall be paid by the school district of residence of the eligible individual.

c. If the school district of residence of the eligible individual cannot be determined and this individual is not included in the weighted enrollment of any LEA in the state, the LEA in which the

facility is located may certify the costs to the director of education by August 1 of each year for the preceding fiscal year. Payment shall be made from the general fund of the state.

41.907(6) Responsibility for special education for individuals after termination of parental rights. For eligible individuals placed by the district court, and for whom parental rights have been terminated by the district court, the LEA in which the facility or home is located must provide special education. Costs shall be certified to the director of education by August 1 of each year for the preceding fiscal year by the director of the AEA in which this individual has been placed. Payment shall be made from the general fund of the state.

41.907(7) Proper use of special education instructional and support service funds. Special education instructional funds generated through the weighting plan may be utilized to provide special education instructional services both in state and out of state with the exceptions of itinerant instructional services under subrule 41.410(1) and special education consultant services that shall utilize special education support service funds for both in-state and out-of-state placements.

41.907(8) Funding of ECSE instructional options. Eligible individuals below the age of six may be designated as full-time or part-time students depending on the needs of the child. Funding shall be based on individual needs as determined by the IEP team. Special education instructional funds generated through the weighting plan can be used to pay tuition, transportation, and other necessary special education costs, but shall not be used to provide child care.

a. Full-time ECSE instructional services shall include 20 hours or more of instruction per week. The total hours of participation in special education and general education may be combined to constitute a full-time program.

b. Part-time ECSE instructional services shall include up to 20 hours of instruction per week. The total hours of participation in special education and general education may be combined to constitute a part-time program.

c. Funds under 20 U.S.C. Chapter 33, Part C, may be used to provide FAPE, in accordance with these rules, to eligible individuals from their third birthday to the beginning of the following school year.

41.907(9) Funding for instructional services. After an LEA board approves a delivery system for instructional services as described in subrule 41.408(2), the director, in accordance with Iowa Code sections 256B.9 and 273.5, will assign the appropriate special education weighting to each eligible individual by designating a level of service. The level of service refers to the relationship between the general education program and specially designed instruction for an eligible individual. The level of service is determined based on an eligible individual's educational need and independent of the environment in which the specially designed instruction is provided. The level of service assigned shall not be a factor in a services or placement decision, and shall be made only after those decisions have been made. One of three levels of service shall be assigned by the director:

a. Level I. A level of service that provides specially designed instruction for a limited portion or part of the educational program. A majority of the general education program is appropriate. This level of service includes modifications and adaptations to the general education program. (Reference Iowa Code section 256B.9(1)“b”)

b. Level II. A level of service that provides specially designed instruction for a majority of the educational program. This level of service includes substantial modifications, adaptations, and special education accommodations to the general education program. (Reference Iowa Code section 256B.9(1)“c”)

c. Level III. A level of service that provides specially designed instruction for most or all of the educational program. This level of service requires extensive redesign of curriculum and substantial modification of instructional techniques, strategies and materials. (Reference Iowa Code section 256B.9(1)“d”)

41.907(10) Procedures for billing under subrules 41.907(5) and 41.907(6). The department may establish procedures by which it determines which district initially pays the costs of special education and related services and seeks reimbursement in situations where a parent of a child cannot be located, parental rights have been terminated, or parents are deceased.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.908(256B,282) Accountability. The responsible agency shall provide special education and related services in accordance with the individual's IEP; but the agency, teacher, or other person is not held accountable if an individual does not achieve the growth projected in the annual goals and objectives of the IEP, so long as the individual's IEP was reasonably calculated to confer education benefit and was implemented. Nothing in this rule or this chapter is to be construed to create a right of action against any individual.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.909 to 41.999 Reserved.

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

281—41.1000 and 41.1001 Reserved.

281—41.1002(256B,34CFR300) Special education mediation conference.

41.1002(1) Procedures. The parent, the LEA or the AEA may request a special education mediation conference on any decision relating to the identification, evaluation, educational placement, or the provision of FAPE without the need for filing a due process complaint. The mediation conference shall comply with rule 281—41.506(256B,34CFR300).

a. A request for a special education mediation conference may be in the form of a letter or a pleading or on a form provided by the department. The request will identify the student, LEA and AEA and set forth the facts, the issues of concern, or the reasons for the conference. The letter will be provided to the department, to the AEA, and to the LEA.

b. Within five business days of receipt of the request for the conference, the department will contact all pertinent parties to determine whether participation is desired.

c. A mediation conference will be scheduled and held at a time and place reasonably convenient to all parties involved. Written notice will be sent to all parties by the department.

d. The student's complete school record will be made available for review by the parent prior to the conference, if requested in writing at least ten calendar days before the conference.

e. The individual's complete school record will be available to the participants at the conference if the record is requested in writing at least ten calendar days prior to any scheduling conference call or within two days following the scheduling conference call. The parties may agree to make less than the complete educational record available, or make no educational records available, at the mediation conference.

f. A mediator provided by the department will preside over the conference.

g. If an agreement is reached, a document meeting the requirements of paragraph 41.506(2) "f" will be executed.

h. If agreement is not reached at the conference, all parties will be informed of the procedures for filing a due process complaint.

41.1002(2) Placement during proceedings. Pursuant to rule 281—41.518(256B,34CFR300), unless the parties agree otherwise, the student involved in the mediation conference must remain in the student's present educational placement during the pendency of the proceedings.

41.1002(3) Withdrawals or automatic closures. The initiating party may request a withdrawal prior to the conference. Automatic closure of the department file will occur if any of the following circumstances apply:

a. One of the parties refuses to participate in the voluntary process.

b. The conference is held, but parties are not able to reach an agreement. There will be a ten-calendar-day waiting period after the conference to continue the placement as described in subrule 41.1002(2) in the event a party wishes to pursue a hearing.

c. The conference is held, the parties are able to reach an agreement, and the agreement does not specify a withdrawal date. If a withdrawal date is part of the agreement, an agency withdrawal will occur on the designated date.

41.1002(4) Confidentiality of discussions. Discussions that occur during the special education mediation conference must be confidential, except as may be provided in Iowa Code chapter 679C, and may not be used as evidence in any subsequent due process hearings or civil proceedings; however, the parties may stipulate to agreements reached at the conference. Prior to the start of the conference, the parties and the mediator will be required to sign an Agreement to Mediate form containing this confidentiality provision.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1003(17A,256B) Procedures concerning due process complaints. Due process hearings will be conducted pursuant to these rules, the rules of the department of inspections, appeals, and licensing, and any order made by the presiding administrative law judge.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1004 to 41.1008 Reserved.

281—41.1009(17A,256B) Witnesses.

41.1009(1) Subpoenas. The director of education has the power to issue, but not to serve, subpoenas for witnesses and to compel the attendance of those thus served and the giving of evidence by them. The subpoenas will be given to the requesting parties whose responsibility it is to serve to the designated witnesses. Requests for subpoenas may be denied or delayed if not submitted to the department at least five business days prior to the hearing date.

41.1009(2) Attendance of witness compelled. Any party may compel by subpoena the attendance of witnesses, subject to limitations imposed by state law.

41.1009(3) Cross-examination. Witnesses at the hearing are subject to cross-examination. An individual whose testimony has been submitted in written form, if available, will be subject to cross-examination by any party necessary for a full and true disclosure of the facts. If the individual is not available and cross-examination is necessary for a full and true disclosure of the facts, the administrative law judge may exclude the individual's testimony in written form.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1010(17A,256B) Rules of evidence.

41.1010(1) Receiving relevant evidence. Because the administrative law judge must decide each case fairly, based on the information presented, it is necessary to allow for the reception of all relevant evidence that will contribute to an informed result. The ultimate test of admissibility is whether the offered evidence is reliable, probative and relevant.

41.1010(2) Acceptable evidence. Irrelevant, immaterial or unduly repetitious evidence will be excluded. The kind of evidence reasonably prudent persons rely on may be accepted even if it would be inadmissible in a jury trial. The administrative law judge will give effect to the rules of privilege recognized by law. Objections to evidence may be made and shall be noted in the record. When a hearing is expedited and the interests of the parties are not prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

41.1010(3) Documentary evidence. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties will be given an opportunity to compare the copy with the original, if available. Any party has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

41.1010(4) Administrative notice and opportunity to contest. The administrative law judge may take official notice of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the administrative law judge. Parties will be notified at the earliest practicable time, either before or during the hearing or by reference in preliminary reports, and afforded an opportunity to contest such facts before the decision is announced unless the administrative law judge determines as part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

41.1010(5) *Discovery.* Discovery procedures applicable to civil actions are available to all parties in due process hearings under this chapter. Evidence obtained in discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. The administrative law judge may exercise such control over discovery, including its nature, scope, frequency, duration, or sequence, as permitted by the Iowa rules of civil procedure, and for such grounds as those rules may provide.

41.1010(6) *Administrative law judge may evaluate evidence.* The administrative law judge's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

41.1010(7) *Decision.* A decision will be made upon consideration of the whole record or such portions that are supported by and in accordance with reliable, probative and substantial evidence.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1011(17A,256B) Communications.

41.1011(1) *Restrictions on communications—administrative law judge.* The administrative law judge will not communicate directly or indirectly in connection with any issue of fact or law in that contested case with any person or party except upon notice and opportunity for all parties to participate.

41.1011(2) *Restrictions on communications—parties.* Parties or their representatives will not communicate directly or indirectly in connection with any issue of fact or law with the administrative law judge except upon notice and opportunity for all parties to participate as are provided for by administrative rules. The recipient of any prohibited communication will submit the communication, if written, or a summary of the communication, if oral, for inclusion in the record of the proceeding.

41.1011(3) *Sanctions.* Any or all of the following sanctions may be imposed upon a party who violates this rule: censure, suspension or revocation of the privilege to practice before the department, or the rendering of a decision against a party who violates the rules.
[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1012(17A,256B) Record.

41.1012(1) *Transcripts.* All recordings or notes by certified court reporters of oral proceedings or the transcripts thereof will be maintained and preserved by the department for at least five years from the date of decision.

41.1012(2) *Hearing record.* The record of a hearing will be maintained and preserved by the department for at least five years from the date of the decision. The record under this division includes the following:

- a. All pleadings, motions and intermediate rulings.
- b. All evidence received or considered and all other submissions.
- c. A statement of matters officially noted.
- d. All questions and offers of proof, objections and rulings thereof.
- e. All proposed findings and exceptions.
- f. Any decision, opinion or report by the administrative law judge presented at the hearing.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1013 Reserved.

281—41.1014(17A,256B) Finality of decision.

41.1014(1) *Decision final.* The decision of the administrative law judge is final. The date of postmark of the decision is the date used to compute time for purposes of appeal.

41.1014(2) *Notice to department of a civil action.* A party initiating a civil action in state or federal court under rule 281—41.516(256B,34CFR300) shall provide an informational copy of the petition or complaint to the department within 14 days of filing the action.

41.1014(3) Filing of certified administrative record. The department shall file a certified copy of the administrative record within 30 days of receiving the informational copy referred to in subrule 41.1014(2).

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1015(256B,34CFR300) Disqualification of mediator. Any party may request an appointment of a new mediator for any reason listed in subrule 41.1004(1). The department will determine whether such grounds exist and, if so, shall appoint a new mediator.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1016(17A) Correcting decisions of administrative law judges. An administrative law judge may, on the motion of any party or on the administrative law judge's own motion, correct any error in a decision or order under this chapter that does not substantively alter the administrative law judge's findings of fact, conclusions of law, or ordered relief, including clerical errors, errors in grammar or spelling, and errors in the form of legal citation. Any such correction will be made within 90 days of the date of the order or decision, will relate back to the date of the order or decision, and will not extend any applicable statute of limitations.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1017 to 41.1099 Reserved.

DIVISION XIII
ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

281—41.1100(256B,34CFR300) References to federal law. All references in this chapter to the United States Code or to the Code of Federal Regulations are to those provisions in effect on February 7, 2024.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1101(256B,34CFR300) Severability. Should any rule or subrule in this chapter be declared invalid by a court of competent jurisdiction, every other rule and subrule not affected by that declaration of invalidity remains valid.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

281—41.1102(256B,34CFR300) Rule of construction. Language adopted pursuant to 2020 Iowa Acts, House File 2585, is to be construed in a manner consistent with federal law and shall not be construed to confer any different or greater right or responsibility under this chapter.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 256B, the 2004 amendments to the Individuals with Disabilities Education Act, and Part 300 of Title 34 of the Code of Federal Regulations published in the Federal Register on August 14, 2006.

[Filed 12/13/66; amended 10/31/74]

[Filed 5/23/77, Notice 3/23/77—published 6/15/77, effective 7/20/77]

[Filed 7/28/81, Notice 4/29/81—published 8/19/81, effective 9/23/81]

[Filed 10/7/83, Notice 8/31/83—published 10/26/83, effective 11/30/83]

[Filed emergency 8/10/84—published 8/29/84, effective 8/10/84]

[Filed 3/4/85, Notice 10/10/84—published 3/27/85, effective 6/1/85]¹

[Filed emergency 7/11/85—published 7/31/85, effective 7/11/85]

[Filed 7/15/88, Notice 6/1/88—published 8/10/88, effective 9/14/88]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed 4/13/90, Notice 2/7/90—published 5/2/90, effective 6/6/90]

[Filed emergency 9/14/90—published 10/3/90, effective 9/14/90]

[Filed 6/5/92, Notice 2/5/92—published 6/24/92, effective 7/29/92]

[Filed 6/11/93, Notice 3/31/93—published 7/7/93, effective 8/11/93]²

[Filed 5/12/95, Notice 3/29/95—published 6/7/95, effective 7/12/95]

[Filed 10/11/96, Notice 8/28/96—published 11/6/96, effective 12/11/96]

[Filed 12/10/99, Notice 10/6/99—published 12/29/99, effective 2/2/00]

[Filed 3/31/06, Notice 2/1/06—published 4/26/06, effective 5/31/06]

[Filed 9/13/07, Notice 6/6/07—published 10/10/07, effective 11/14/07]

[Filed ARC 8387B (Notice ARC 8050B, IAB 8/26/09), IAB 12/16/09, effective 1/20/10]

[Filed ARC 9375B (Notice ARC 9147B, IAB 10/6/10), IAB 2/23/11, effective 3/30/11]

[Filed ARC 9376B (Notice ARC 9269B, IAB 12/15/10), IAB 2/23/11, effective 3/30/11]

[Filed ARC 0814C (Notice ARC 0693C, IAB 4/17/13), IAB 6/26/13, effective 7/31/13]

[Filed ARC 3387C (Notice ARC 3088C, IAB 6/7/17), IAB 10/11/17, effective 11/15/17]

[Filed ARC 3766C (Notice ARC 3614C, IAB 2/14/18), IAB 4/25/18, effective 5/30/18]

[Filed ARC 5329C (Notice ARC 5151C, IAB 8/26/20), IAB 12/16/20, effective 1/20/21]

[Filed ARC 5870C (Notice ARC 5664C, IAB 6/2/21), IAB 8/25/21, effective 9/29/21]

[Filed ARC 6724C (Notice ARC 6584C, IAB 10/5/22), IAB 12/14/22, effective 1/18/23]

[Filed ARC 6979C (Notice ARC 6875C, IAB 2/8/23), IAB 4/19/23, effective 5/24/23]

[Filed ARC 7792C (Notice ARC 7589C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

¹ Effective date of Chapter 12 delayed 70 days by the Administrative Rules Review Committee. Delay lifted by Committee on 7/8/85.

² Effective date of 41.2(3); 41.3(256B), definitions of “Autism,” “Head injury,” “Transition services,” “Behaviorally disordered,” paragraph “1,” “Special education support programs and services”; 41.4(1); 41.18(2)“d”; 41.33(4); 41.33(6) delayed 70 days by the Administrative Rules Review Committee at its meeting held August 3, 1993; delay lifted by this Committee on 9/15/93.

TITLE VIII
SCHOOL TRANSPORTATION
CHAPTER 43
PUPIL TRANSPORTATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 22]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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).

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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.

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

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).

[ARC 7793C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 285.

[Filed 6/2/61; amended 4/30/62, 7/12/62, 5/10/66, 5/10/72, 11/19/74, 6/24/75]

[Filed 6/21/77, Notice 2/9/77—published 7/13/77, effective 8/17/77]

[Filed 5/11/79, Notice 3/21/79—published 5/30/79, effective 7/4/79]

[Filed emergency 7/24/80—published 8/20/80, effective 7/25/80]
[Filed 6/16/82, Notice 4/28/82—published 7/7/82, effective 8/11/82]
[Filed 11/14/86, Notice 8/27/86—published 12/3/86, effective 1/7/87]
[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed 5/8/92, Notice 3/4/92—published 5/27/92, effective 7/1/92]
[Filed 3/20/98, Notice 2/11/98—published 4/8/98, effective 5/13/98]
[Filed 8/2/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]
[Filed 11/17/04, Notice 10/13/04—published 12/8/04, effective 1/12/05]
[Filed 7/27/06, Notice 4/26/06—published 8/16/06, effective 9/20/06]
[Filed ARC 9262B (Notice ARC 9013B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]
[Filed ARC 9472B (Notice ARC 9372B, IAB 2/23/11), IAB 4/20/11, effective 5/25/11]
[Filed ARC 0517C (Notice ARC 0388C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 0767C (Notice ARC 0641C, IAB 3/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 1661C (Notice ARC 1528C, IAB 7/9/14), IAB 10/15/14, effective 11/19/14]¹
[Filed ARC 4636C (Notice ARC 4478C, IAB 6/5/19), IAB 8/28/19, effective 10/2/19]
[Filed ARC 7793C (Notice ARC 7590C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

¹ November 19, 2014, effective date of 43.15[ARC 1661C] delayed 70 days by the Administrative Rules Review Committee at its meeting held November 18, 2014. At its meeting held December 12, 2014, the Committee delayed the effective date of 43.15 until the adjournment of the 2015 Session of the General Assembly.

CHAPTER 44
SCHOOL BUSES

[Prior to 8/10/88, see Public Instruction Department[670] Ch 23]

281—44.1(285) Requirements for manufacturers. In order to protect both the boards of education and manufacturers of school transportation vehicles and equipment from misunderstanding and confusion, all manufacturers shall provide equipment meeting all Iowa vehicle construction requirements described in this chapter as well as all applicable federal motor vehicle safety standards (FMVSS) that are in effect on February 7, 2024, which include the following:

- 101—Control location, identification, and illumination.
- 102—Transmission shift lever sequence, starter interlock, and transmission braking effect.
- 103—Windshield defrosting and defogging systems.
- 104—Windshield wiping and washing systems.
- 105—Hydraulic braking systems.
- 106—Brake hoses.
- 107—Reflecting surfaces.
- 108—Lamps, reflective devices, and associated equipment.
- 109—New pneumatic tires.
- 110—Tire selection and rims.
- 111—Rearview mirrors.
- 113—Hood latch systems.
- 116—Motor vehicle brake fluids.
- 119—New pneumatic tires for vehicles other than passenger cars.
- 120—Tire selection and rims for motor vehicles other than passenger cars.
- 121—Air brake systems.
- 124—Accelerator control systems.
- 131—School bus pedestrian safety devices.
- 205—Glazing materials.
- 206—Door locks and door retention components.
- 207—Seating systems.
- 208—Occupant crash protection.
- 209—Seat belt assemblies.
- 210—Seat belt assembly anchorages.
- 217—Bus window retention and release.
- 219—Windshield zone intrusion for vehicles with a GVWR of 10,000 pounds or less.
- 220—School bus rollover protection.
- 221—School bus body joint strength.
- 222—School bus passenger seating and crash protection.
- 301—Fuel system integrity.
- 302—Flammability of interior materials.
- 303—Fuel system integrity of compressed natural gas vehicles.
- 304—Compressed natural gas fuel container integrity.

[ARC 7794C, IAB 4/17/24, effective 5/22/24]

281—44.2(285) School bus—type classifications. A bus owned, leased, contracted to or operated by a school or school district and regularly used to transport students to and from school or school-related activities, but not including a charter bus or transit bus, meets all applicable FMVSS, and is readily identified by alternately flashing lights, National School Bus Glossy Yellow (NSBY) paint, and the legend “School Bus.” Schools and school districts in Iowa are not allowed to own or lease motor coaches but may charter them for activities.

44.2(1) Type A. A Type A school bus is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver’s door. This definition includes two classifications: Type

A-1, with a gross vehicle weight rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

44.2(2) Type B. A Type B school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less; and Type B-2, with a GVWR greater than 10,000 pounds.

44.2(3) Type C. A Type C school bus, also known as a conventional school bus, is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels. This type of school bus also includes the cutaway truck chassis or truck chassis with cab with or without a left side door and with a GVWR greater than 21,500 pounds.

44.2(4) Type D. A Type D school bus, also known as a rear or front engine transit-style school bus, is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

44.2(5) Type III. Type III vehicles are not regular school buses but nonetheless are used to transport students in a school-related context and may be marked as a “school bus.” To qualify as a Type III vehicle, the vehicle may carry a maximum of 12 or fewer people, including the driver, and weigh 10,000 pounds or less. These vehicles will be subject to school bus inspections per Iowa Code and rule.

44.2(6) Specially equipped. A specially equipped school bus is a school bus designed, equipped, or modified to accommodate students with special needs.

44.2(7) Multifunction school activity bus (MFSAB). A multifunction school activity bus is a school bus whose purposes do not include transporting students to and from home or school bus stops as defined in 49 CFR 571.3. MFSABs meet all FMVSS for school buses except the traffic control requirements (alternately flashing signal and stop arm). These vehicles will be subject to school bus inspections per Iowa Code and rule.

[ARC 7794C, IAB 4/17/24, effective 5/22/24]

281—44.3(285) School bus body and chassis specifications.

44.3(1) Aisle. All emergency doors shall be accessible by a 12-inch minimum aisle. Aisles are to be unobstructed at all times by any type of barrier, seat, wheelchair, tie-down, or other object(s), with the exception of a flip seat that is installed and occupied at a side emergency door position. The track of a track-seating system is exempt from this subrule. A flip seat in the unoccupied (up) position is not to obstruct the 12-inch minimum aisle to any side emergency door.

44.3(2) Axles. The front and rear axle and suspension systems are to have gross axle weight rating (GAWR) at ground commensurate with the respective front and rear weight loads that will be imposed by the bus.

44.3(3) Backup warning alarm. An automatic audible alarm shall be installed behind the rear axle on every school bus/MFSAB and comply with the published Backup Alarm Standards (SAE J994B), providing a minimum of 112 dBA. A variable volume feature is not allowed.

44.3(4) Body sizes. Type A vehicles may be purchased with manufacturer’s recommended seating capacities when the chassis is manufactured with rear dual tires.

44.3(5) Brakes.

a. Brakes, all, general requirements.

(1) All buses will have either a parking pawl in the transmission or a parking brake interlock that requires the service brake to be applied to allow release of the parking brake.

(2) All brake systems will be designed to permit visual inspection of brake lining wear without removal of any chassis component(s).

(3) The brake lines, booster-assist lines, and control cables will be protected from excessive heat, vibration and corrosion and installed in a manner that prevents chafing.

(4) The parking brake system may be of a power-assisted design. The power parking brake actuator should be a device located on the instrument panel within reach of a seated driver. As an option, the parking brake may be set by placing the automatic transmission shift control mechanism in the “park” position.

(5) Every vehicle is to be equipped with a signal that provides a warning to the driver when a failure occurs in the vehicle's brake system. A warning signal will be audible and visible to the driver. A Type A vehicle under 10,000 lbs. GVWR may have a visible warning signal only.

(6) The power-operated parking brake system may be interlocked to the engine key switch. Once the parking brake has been set and the ignition switch turned to the "off" position, the parking brake cannot be released until the key switch is turned back to the "on" position.

b. Air brakes, general requirements.

(1) The air pressure supply system will include a desiccant-type air dryer installed according to the manufacturer's recommendations. The air pressure storage tank system may incorporate an automatic drain valve.

(2) The manufacturer will provide an accessory outlet for other air-operated systems installed in or on the bus. This outlet is to include a pressure protection valve to prevent loss of air pressure in the service brake reservoir.

(3) For air brake systems, an air pressure gauge capable of complying with commercial driver's license (CDL) pre-trip inspection requirements will be provided in the instrument panel.

(4) Air brake systems will include a system for anticomponding of the service brakes and parking brakes.

c. Brakes, all, specific requirements.

(1) The braking system shall include the service brake, an emergency brake that is part of the service brake system and controlled by the service brake pedal, and a parking brake meeting FMVSS at date of manufacture.

(2) An air brake system is required on every chassis meeting one or more of the following:

1. Wheelbase equal to or greater than 274 inches.

2. Designed seating capacity rating greater than 66 passengers. Designed seating capacity, also known as manufacturer's seating capacity, is the actual or theoretical passenger capacity of the vehicle if it were constructed with the maximum number of seating positions.

(3) An air brake system is to comply with the following system and component designs:

1. The system cannot be of wedge design.

2. The system will include an air dryer system having design features equal to or exceeding the Bendix Westinghouse Model AD9. The system is to be self-purging and capable of removing oil, dirt, and moisture. The dryer system will also be equipped with a heater to prevent the freezing of moisture within the system. All plumbing from air compressor to input of air dryer or after-cooler will provide soft flow bends not producing sumps in the air compressor line having direct entry into the dryer.

3. A system of automatic adjustment compensating for service brake wear is to be installed at all wheel positions.

4. The air compressor produces a minimum output of 12.0 cubic feet per minute (CFM).

(4) Vehicles with 10,000 pounds GVWR or less will be equipped with a hydraulic, dual-braking system of manufacturer's standard, with power assist.

44.3(6) Bumper, front.

a. All school buses will be equipped with a front bumper painted glossy black, a chrome front bumper, or a front bumper coated with a black corrosion-resistant texturized material.

b. The front bumper on buses of Type A-2 (with GVWR greater than 14,500 pounds), Type B, Type C, and Type D is to be equivalent in strength and durability to pressed steel channel at least 3/16 inches thick and not less than 8 inches wide (high). The front bumper will extend beyond the forward-most part of the body, grille, hood and fenders and extend to the outer edges of the fenders at the bumper's top line. Type A buses having a GVWR of 14,500 pounds or less may be equipped with an original equipment manufacturer (OEM)-supplied front bumper.

c. The front bumper, except breakaway bumper ends, is to be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to the bumper, chassis or body.

d. The bumper will be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow hooks/eyes.

e. Tow eyes or hooks are required on Type B, C, and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks are to be installed by the bus manufacturer so as not to project beyond the front bumper.

f. An optional energy-absorbing front bumper may be used, provided its design incorporates a self-restoring, energy-absorbing system of sufficient strength to:

(1) Push another vehicle of similar GVWR without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

1. 7.5 mph fixed-barrier impact (FMVSS cart and barrier test).
2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
3. 20.0 mph into parked passenger car (Type B, C, and D buses of 18,000 pounds GVWR or more).

The manufacturer of the energy-absorbing bumper system is to provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

44.3(7) Bumper, rear.

a. All school buses are to be equipped with a rear bumper painted glossy black or coated with a black corrosion-resistant texturized material.

b. The rear bumper is to be pressed steel channel or equivalent material, at least 3/16 inches thick and is to be a minimum of 8 inches wide (high) on Type A-2 vehicles and a minimum of 9½ inches wide (high) on Type A-1, B, C and D buses. The rear bumper will be of sufficient strength to permit its being pushed by another vehicle without permanent distortion to the bumper, body, or chassis.

c. The rear bumper will be wrapped around the back corners of the bus. It is to extend forward at least 12 inches, measured from the rear-most point of the body at the floor line and is to be flush-mounted to the body side or protected with an end panel.

d. The rear bumper will be attached to the chassis frame in such a manner that the bumper may be easily removed. It is to be braced so as to resist deformation of the bumper resulting from a rear or side impact and designed so as to discourage the hitching of rides.

e. The bumper is to extend at least 1 inch beyond the rear-most part of body surface measured at the floor line.

f. Additions or alterations to the rear bumper, including the installation of trailer hitches, are not allowed.

g. An optional energy-absorbing rear bumper may be used, provided a self-restoring, energy-absorbing bumper system attached to prevent the hitching of rides is of sufficient strength to:

(1) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following FMVSS performance standards:

1. 2.0 mph fixed barrier impact (FMVSS cart and barrier test).
2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
3. 5.0 mph center impact (Part 581, CFR Title 49).

The manufacturer of the energy-absorbing system will provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

44.3(8) Certification. The manufacturer(s) will, upon request, certify to the department of education that the manufacturer's product(s) meets Iowa minimum standards on items not covered by FMVSS certification provisions of 49 CFR Part 567.

44.3(9) Color.

a. Chassis will be black. Body cowl, hood, and fenders will be National School Bus Glossy Yellow. The flat top surface of the hood may be nonreflective National School Bus Glossy Yellow or flat black.

b. Wheels and rims will be gray, black, or National School Bus Glossy Yellow. Aluminum wheels are also allowed.

c. The grille is to be gray, black, chrome, or National School Bus Glossy Yellow.

d. The school bus body will be painted National School Bus Glossy Yellow. (See color standard, Appendix B, National School Transportation Specifications and Procedures Manual 2015.)

e. The body exterior trim will be glossy black, including the exterior lettering, numbering, body trim, rub rails, lamp hoods (if any), and emergency door arrow. This may also include the entrance door and window sashes. In addition, the rear bumper may be covered with a black retroreflective material as described in subrule 44.3(48). When the bus number is placed on the front or rear bumper, the number is to be National School Bus Glossy Yellow.

f. As an option, the roof of the bus may be painted white extending down to within 6 inches above the drip rails on the sides of the body, except that the vertical portion of the front and rear roof caps is to remain National School Bus Glossy Yellow.

g. Commercial advertising is forbidden on the exterior and in the interior of all school buses.

44.3(10) Construction.

a. The school bus body will be constructed of materials certified to be durable under normal operating conditions and meet all applicable FMVSS at the date of manufacture as certified by the bus body manufacturer.

b. Construction will be reasonably dustproof and watertight.

c. Body joints present in that portion of the Type A school bus body furnished exclusively by the body manufacturer will conform to the performance requirements of FMVSS No. 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

d. A flat floor system featuring no wheel wells and no step-up at the rear of the passenger compartment may be used in accordance with the following:

(1) The inside height of the body remains at least 72 inches, when measured in accordance with subrule 44.3(39), when this option is installed.

(2) If this option utilizes a raised floor that is stepped up behind the driver's area, the forward edge of the aisle has a white or yellow stripe and is labeled "Step Up" visible to passengers upon entering the aisle; and a label "Step Down" is visible to passengers as they exit the aisle. Minimum headroom of 72 inches is maintained at all times.

(3) A flat floor design provides for the additional option for a track-mounted seating system using button-type (L track) and a wheelchair securement system meeting Iowa specifications but mounting into the track of the track-seating system. Aisle clearances are maintained in accordance with these rules.

44.3(11) Crossing control arms.

a. Type A, B, and C school buses are to be equipped, and Type D buses may be equipped, with a crossing control arm that is mounted on the right side of the front bumper and that will not open more than 90 degrees. When opened, the crossing control arm will extend in a line parallel to the body side and aligned with the right front wheel.

b. All components of the crossing control arm and all connections are weatherproofed.

c. The crossing control arm is constructed of noncorrodible or nonferrous material or treated in accordance with the body sheet metal standard. See subrule 44.3(40).

d. There are no sharp edges or projections that could cause hazard or injury to students.

e. The crossing control arm extends a minimum of 70 inches from the front bumper when in the extended position. This measurement is to be taken from the arm assembly attachment point on the bumper. However, the crossing control arm does not extend past the ends of the bumper when in the stowed position.

f. The crossing control arm extends simultaneously with the stop arm(s) by means of the stop arm controls.

g. The crossing control arm system is designed to operate in extreme weather conditions, including freezing rain, snow and temperatures below 0 degrees Fahrenheit, without malfunctioning. The crossing

control arm itself is constructed of a material that will prevent the arm from prematurely extending or from failing to retract due to sustained wind or wind gusts of up to 40 miles per hour.

h. To ensure that the unit mounts flush and operates properly, the chassis bumper mounting bracket is designed for the specific model chassis on which it will be mounted.

i. A single, cycle-interrupt switch with automatic reset will be installed in the driver's compartment and be accessible to the driver from the driver's seat.

j. The assembly may include a device attached to the bumper near the end of the arm to automatically retain the arm while in the stowed position. That device is not to interfere with normal operations of the crossing control arm.

44.3(12) *Daytime running lights (DRL).* See subrule 44.3(31).

44.3(13) *Defrosters.*

a. Defrosting and defogging equipment direct a sufficient flow of heated air onto the interior surfaces of the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

b. The defrosting system conforms to SAE J381.

c. The defroster and defogging system is capable of furnishing heated outside ambient air; however, the part of the system furnishing additional air to the windshield, entrance door and step well may be of the recirculating air type.

d. Auxiliary fans are required; however, they are not considered defrosting or defogging systems. See also subrule 44.3(73).

e. Portable heaters shall not be used.

44.3(14) *Doors and exits.*

a. Service door.

(1) The service door will be heavy-duty power- or manually operated under the control of the driver and designed to afford easy release and prevent accidental opening. When a hand lever is used, no parts come together to shear or crush fingers. Manual door controls do not need more than 25 pounds of force to operate at any point throughout the range of operation. A power-operated door provides for manual operation in case of power failure. In all instances, the power-operated door control is to be located in the steering wheel or to the left or right of the driver.

(2) The primary service door is located on the right side of the bus opposite the driver and within the driver's direct view and will remain closed anytime the vehicle is in motion.

(3) The service door has a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches.

(4) The entrance door is a split-type door that opens outward.

(5) All glass panels are of approved safety glass as defined in subrule 44.3(75). The bottom of each lower glass panel is not more than 10 inches from the top surface of the bottom step. The top of each upper glass panel is not more than 3 inches from the top of the door.

(6) Vertical closing edges on split or folding entrance doors are equipped with flexible material to protect children's fingers.

(7) There is no door to the left of the driver on Type B, C or D vehicles. All Type A vehicles may be equipped with the chassis manufacturer's standard left side (driver's side) door.

(8) All doors are equipped with padding at the top edge of each door opening. Padding is at least 3 inches wide and 1 inch thick and extends horizontally the full width of the door opening.

(9) A door-locking mechanism may be installed in accordance with subrule 44.3(72).

(10) On power-operated service doors, the emergency release valve, switch or device to release the service door is placed above the service door, to the right side of the driver console, or to the left or right of the service door and be clearly labeled. The emergency release valve, switch or device will work in the absence of power.

b. Emergency doors.

(1) Emergency door(s) and other emergency exits comply with the provisions of FMVSS No. 217 and any provision of these rules that exceed FMVSS No. 217.

(2) The exposed area of the upper panel of emergency doors is a minimum of 400 square inches of approved safety glazing. If installed, all other glass panels on emergency doors are of approved safety glazing.

(3) There shall be no steps leading to an emergency door.

(4) The emergency door(s) are equipped with padding at the top edge of each door opening. Padding is at least 3 inches wide and 1 inch thick and extends the full width of the door opening.

(5) There is to be no obstruction higher than ¼ inch across the bottom of any emergency door opening. Fasteners used within the emergency exit opening are free of sharp edges or burrs.

c. Emergency exit requirements.

(1) Any installed emergency exit complies with the design and performance requirements of FMVSS No. 217, applicable to that type of exit, whether or not that exit is required by FMVSS No. 217, and complies with any of the requirements of these rules that exceed FMVSS No. 217.

(2) An emergency exit may include either an emergency door or emergency exit-type windows. Where emergency exit-type windows are used, they are to be installed in pairs, one on each side of the bus. Type A, B, C, and D vehicles will be equipped with a total number of emergency exits as follows for the designed capacities of vehicles:

1. 0 to 42 passengers = 1 emergency exit per side and 1 roof hatch.
2. 43 to 78 passengers = 2 emergency exits per side and 2 roof hatches.
3. 79 to 90 passengers = 3 emergency exits per side and 2 roof hatches.

These emergency exits are in addition to the rear emergency door or rear pushout window/side emergency door combination required by FMVSS No. 217. Additional emergency exits installed to meet the capacity-based requirements of FMVSS No. 217 may be included to comprise the total number of exits specified. All roof hatches are to have design features as specified in subrule 44.3(73).

(3) Side and rear emergency doors and each emergency window exit are equipped with an audible warning device.

(4) Roof hatches are equipped with an audible warning device and work appropriately without the wiring becoming disconnected from the switch.

(5) Rear emergency windows on Type D rear-engine buses have a lifting-assistance device that will aid in lifting and holding the rear emergency window open.

(6) Side emergency windows may be either top-hinged or vertically hinged on the forward side of the window. No side emergency exit window will be located above a stop sign.

(7) On the inside surface of each school bus, located directly beneath or above all emergency doors and windows, is to be a “DO NOT BLOCK” label in a color that contrasts with the background of the label. The letters on this label are at least 1 inch high.

44.3(15) Drive shaft. The drive shaft is to be protected by a metal guard or guards around the circumference of the drive shaft to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

44.3(16) Driver's compartment.

a. A driver's document compartment or pouch is provided. The document compartment or pouch measures at least 17 inches × 12 inches × 4 inches. If a document pouch, rather than a covered compartment, is provided, it is located on the barrier behind the driver. It will be constructed of a material of equal durability to that of the covering on the barrier and have a lid or cover with a latching device to hold the cover or lid closed.

b. Mobile data terminals are allowed. Programs loaded on the data terminal will be specific to school bus operations such as passenger accountability, routing, navigation, emergency notification, tracking, messaging, and equipment monitoring.

(1) The data terminal is mounted within the driver's compartment in a location that allows the driver to see the data terminal display screen at a glance but does not obstruct the driver's view in any direction when the driver is seated in a normal driving position. This would include impeding the view of the road, mirrors, highway signs, signals, other instruments, entrance door, and passengers. The data terminal display screen and audio turn-by-turn instructions may remain active while the bus is in motion.

(2) Overhead mounting of the data terminal is not allowed. The device will not impede space within the aisle and will not be mounted in such a way as to be a snagging hazard in the student loading area of the service door.

(3) The data terminal is securely mounted to the vehicle when in use in such a way as to minimize sharp edges. The device may be removed when not in use.

(4) The data terminal is not to be connected to the passenger compartment sound system.

(5) Distractive manipulation of a data terminal is prohibited while the school bus is being driven. For the purposes of this subparagraph, “driven” means operating a school bus, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays such as picking up or discharging students. “Driven” does not include operating a school bus, with or without the motor running, when the school bus is legally stopped or parked upon the highway for a prolonged period of time.

c. Commercially produced pedal blocks or OEM adjustable pedals are allowed.

44.3(17) Electrical system.

a. *Battery, does not include electric powertrain batteries.*

(1) The storage batteries have a minimum cold cranking capacity rating (cold cranking amps) equal to the cranking current required for 30 seconds at 0 degrees Fahrenheit and a minimum reserve capacity rating of 120 minutes at 25 amps. Higher capacities may be necessary, depending upon optional equipment and local environmental conditions.

(2) The manufacturer will securely attach the battery on a slide-out or swing-out tray in a closed, vented compartment in the body skirt or chassis frame so that the battery is accessible for convenient servicing from the outside. When in the stored position, the tray is retained by a securing mechanism capable of holding the tray (with battery[ies]) in position. The battery compartment door or cover, if separate from the tray, is hinged at the front or top. It is secured by a positive operated latching system or other type fastener. The door may be an integral part of the battery slide tray. The door or cover will fit tightly to the body and not present sharp edges or snagging points. Battery cables meet Society of Automotive Engineers (SAE) requirements. Battery cables are of sufficient length to allow the battery tray to fully extend. Any chassis frame-mounted batteries will be relocated to a battery compartment on Type A buses.

(3) All batteries are to be secured in a sliding tray except that on van conversion or cutaway front-section chassis, batteries may be secured in accordance with the manufacturer’s standard configuration. The battery cable provided with the chassis is of sufficient length to allow some slack and of sufficient gauge to carry the required amperage.

(4) The top surface area of the inside of the battery compartment (the area likely to come into contact with battery electrical terminals as the result of a blow to, and upward collapse of, the bottom of the battery box in the event of an accident or other event) is covered with a rubber matting or other impact-resistant nonconductive material. The matting is a minimum of 1/8 inch thick and covers the entire top inside surface of the battery box. The matting is securely installed to maintain its position at all times.

(5) Buses may be equipped with a battery shut-off switch. The switch is to be placed in a location not readily accessible to the driver or passengers.

b. *Alternator.*

(1) All Type A and Type B buses with a GVWR of 15,000 pounds or less have a minimum 130-amp alternator. Buses equipped with an electrically powered wheelchair lift, air conditioning, or both are to be equipped with the highest rated capacity available from the chassis OEM.

(2) All buses over 15,000 pounds GVWR are equipped with a heavy-duty truck- or bus-type alternator that has a minimum output rating of 200 amps or higher and that produces a minimum current output of 50 percent of the rating at engine idle speed.

(3) Buses other than those described in subparagraph 44.3(17)“b”(1) equipped with an electrically powered wheelchair lift, air conditioning, or both shall have a minimum alternator output of 240 amps.

(4) A belt-driven alternator is capable of handling the rated capacity of the alternator with no detrimental effect on any other driven components. (For estimating required alternator capacity, see

School Bus Manufacturers Technical Council's publication "School Bus Technical Reference," dated August 2001 and available at www.nasdpts.org.)

- (5) A direct/gear-drive alternator is permissible in lieu of a belt-driven alternator.
 - c. *Electrical components.* Materials in electrical components shall contain no mercury.
 - d. *Wiring, chassis.*

(1) All wiring conforms to current applicable recommended practices of the Society of Automotive Engineers (SAE). All wiring uses color and at least one other method for identification. The other method is to be either a number code or name code, and each chassis will be delivered with a wiring diagram that illustrates the wiring of the chassis.

(2) The chassis manufacturer of an incomplete vehicle will install a readily accessible terminal strip or connector on the body side of the cowl or in an accessible location in the engine compartment of vehicles designed without a cowl. The strip or connector will contain the following terminals for the body connections:

1. Main 100-amp body circuit.
2. Tail lamps.
3. Right turn signal.
4. Left turn signal.
5. Stop lamps.
6. Backup lamps.
7. Instrument panel lights (rheostat controlled by headlamp switch).

(3) An appropriate identifying diagram (color plus a name or number code) for all chassis electrical circuits will be provided to the body manufacturer for distribution to the end user.

(4) Wiring for the headlamp system will be separate from the electronic controlled body solenoid/module.

e. *Wiring, body.*

- (1) All wiring conforms to current applicable SAE recommended practices.
- (2) All wiring has an amperage capacity exceeding the design load by at least 25 percent. All wiring splices are to be accessible and noted as splices on the wiring diagram.
- (3) A body wiring diagram, sized to be easily read, will be furnished with each bus body or affixed to an area convenient to the electrical accessory control panel.
- (4) The body power wire will be attached to a special terminal on the chassis.
- (5) Each wire passing through metal openings will be protected by a grommet.
- (6) Wires not enclosed within the body will be fastened securely at intervals of not more than 18 inches. All joints are to be soldered or joined by equally effective connectors, which are to be water-resistant and corrosion-resistant.

(7) Wiring will be arranged in circuits, as required, with each circuit protected by a fuse breaker or electronic protection device. A system of color- and number-coding will be used and an appropriate identifying diagram shall be provided to the end user, along with the wiring diagram provided by the chassis manufacturer. The wiring diagrams will be specific to the bus model supplied and include any changes to wiring made by the body manufacturer. The following body interconnecting circuits will be color-coded, as noted:

FUNCTION	COLOR
Left Rear Directional Lamp	Yellow
Right Rear Directional Lamp	Dark Green
Stop Lamps	Red
Back-Up Lamps	Blue
Tail Lamps	Brown
Ground	White
Ignition Feed, Primary Feed	Black

The color of the cables will correspond to SAE J1128, Low-Tension Primary Cable.

- (8) Wiring will be arranged in at least six regular circuits, as follows:
 1. Head, tail, stop (brake), clearance and instrument panel lamps;
 2. Step well lamps, which are actuated when the entrance door is open;
 3. Dome lamps;
 4. Ignition and emergency door signal;
 5. Turn signal lamps; and
 6. Alternately flashing signal lamps.
- (9) Any of the above combination circuits may be subdivided into additional independent circuits.
- (10) Heaters and defrosters will be wired on an independent circuit.
- (11) Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) will be provided with independent and properly protected circuits.
- (12) Each body circuit will be coded by number or letter on a diagram of circuits and attached to the body in a readily accessible location.
- (13) Buses may be equipped with a 12-volt power port in the driver's area.
- (14) There will be a manual noise suppression switch installed in the control panel. The switch is to be labeled and alternately colored. This switch will be an on/off type that deactivates body equipment that produces noise, including at least the AM/FM radio, heaters, air conditioners, fans and defrosters. This switch will not deactivate safety systems, such as windshield wipers or lighting systems.

44.3(18) Emergency equipment.

a. All Type A, B, C, and D school buses will be equipped with the following emergency equipment mounted forward of front barriers: first aid kit, fire extinguisher, webbing cutter, and body fluid cleanup kit. Three triangular warning devices are required in each vehicle and may be mounted in the driver's compartment or behind the rear seat.

b. All emergency equipment will be securely mounted so that, in the event the bus is overturned, this equipment is held in place. Emergency equipment, with the exception of the webbing cutter mounted in a location accessible to the driver, may be mounted in an enclosed compartment provided that the compartment is labeled in not less than 1-inch letters, stating the piece(s) of equipment contained therein.

c. Fire extinguishers will meet the following provisions:

(1) The bus will be equipped with at least one 5-pound capacity, UL-approved, pressurized dry chemical fire extinguisher complete with hose. The extinguisher will be securely mounted in a heavy-duty automotive bracket so as to prevent accidental release in case of a crash or in the event the bus overturns.

(2) A calibrated or marked gauge is to be mounted on the extinguisher to indicate the amount of pressure in the extinguisher and easily read without moving the extinguisher from its mounted position. Plastic discharge heads and related parts are not acceptable.

(3) The fire extinguisher will have a rating of 2A-10BC or greater. The operating mechanism will be sealed with a type of seal that will not interfere with the use of the fire extinguisher.

(4) All fire extinguishers are to be inspected and maintained in accordance with the National Fire Protection Association requirements.

(5) Each extinguisher will have a tag or label securely attached that indicates the month and year the extinguisher received its last maintenance and the identity of the person performing the service.

d. First aid kit. A first aid kit meeting the national recommendations (most current National School Transportation Specifications and Procedures Manual—first aid kit) is needed on all vehicles used for student transportation.

e. Body fluid cleanup kit. Each vehicle used for student transportation will be equipped with a disposable, removable, and moistureproof body fluid cleanup kit in a disposable container that includes the following items:

- (1) An EPA-registered liquid germicide (tuberculocidal) disinfectant;
- (2) A fully disposable wiping cloth;
- (3) A water-resistant spatula;
- (4) Step-by-step directions;

- (5) Absorbent material with odor counteractant;
- (6) Two pairs of gloves;
- (7) One package towelettes;
- (8) A discard bag (unlabeled paper bag with a plastic liner and a twist tie). This bag is to be approximately 4 inches × 6 inches × 14 inches. The kit will be removable without the use of tools.

f. Each vehicle used for student transportation will be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. One or more of these devices will be mounted in an easily detachable manner and in a location accessible to the seated driver.

g. Axes are not allowed.

44.3(19) Exhaust system.

a. The exhaust pipe, muffler and tailpipe will be outside the bus body compartment and attached to the chassis so as not to damage any other chassis component.

b. The tailpipe will be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel tubing.

c. The tailpipe may be flush with, or will not extend more than 2 inches beyond, the perimeter of the body for side-exit pipe or the bumper for rear-exit pipe. The exhaust system will be designed such that exhaust gas will not be trapped under the body of the bus.

d. The tailpipe will exit to the left or right of the emergency exit door in the rear of the vehicle or to the left side of the bus in front of or behind the rear drive axle or the tailpipe may extend through the bumper. The tailpipe exit location on all Type A-1 or B-1 buses may be in accordance with the manufacturer's standards. The tailpipe will not exit beneath any fuel filler location, emergency door or lift door.

e. The exhaust system on a chassis will be adequately insulated from the fuel system.

f. The muffler is to be constructed of corrosion-resistant material.

g. The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

h. The design of the aftertreatment systems is not to allow active (non-manual) regeneration of the particulate filter during the loading and unloading of passengers. Manual regeneration systems will be designed such that unintentional operation will not occur.

i. For aftertreatment systems that require diesel exhaust fluid (DEF) to meet federally mandated emissions:

(1) The composition of diesel exhaust fluid (DEF) complies with International Standard ISO 22241-1. Refer to engine manufacturer for any additional DEF requirements.

(2) The DEF supply tank is sized to meet a minimum ratio of 3 diesel fills to 1 DEF fill.

44.3(20) Fenders, front and hood. This subrule does not apply to Type A or D vehicles.

a. The total spread of outer edges of front fenders, measured at the fender line, is to exceed the total spread of front tires when the front wheels are in the straight-ahead position.

b. Front fenders will be properly braced and not require attachment to any part of the body.

c. Chassis sheet metal will not extend beyond the rear face of the cowl.

d. Front fenders and hood may be of manufacturer's standard material and construction.

e. The hood will not require more than 20 pounds of force to open and include design features to secure the hood in an open position.

44.3(21) Fire suppression system. An automatic fire suppression system may be installed. Fire suppression system nozzles will be located in the engine compartment, under the bus, in the electrical panel or under the dash, but they are not to be located in the passenger compartment. The system is to include a lamp or buzzer to alert the driver that the system has been activated.

44.3(22) Floor insulation and covering.

a. The floor structure of Type A, B, C and D school buses will be covered with an insulating layer of either a 5-ply minimum 5/8-inch-thick plywood, or a material of equal or greater strength and insulation R-value, having properties equal to or exceeding exterior-type softwood plywood, C-D grade as specified in standards issued by the United States Department of Commerce. All edges will be sealed.

b. Type A buses may be equipped with a minimum ½-inch-thick plywood meeting the above requirements.

c. The floor in the under-seat area of Type B, C, and D buses, including tops of wheelhousings, driver's compartment and toeboard, will be covered with an elastomer floor covering having a minimum overall thickness of .125 inch and a calculated burn rate of 0.1 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302. The floor covering of the driver's area and toeboard area on all Type A buses may be the manufacturer's standard flooring and floor covering.

d. The floor covering in the aisles will be of a ribbed or other raised-pattern elastomer and have a calculated burn rate of 0.1 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302. Minimum overall thickness is .187 inch measured from tops of ribs.

e. Floor covering are to be permanently bonded to the floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material is to be waterproof and of a type recommended by the manufacturer of the floor-covering material. All seams are to be sealed with waterproof sealer. One-piece floor covering is allowed.

f. On Type B, C and D buses, access to the fuel tank sending unit will be provided. The access opening will be large enough and positioned to allow easy removal of the sending unit. Any access opening in the body is capable of being sealed with a screw-down plate from within the body. When in place, the screw-down plate will seal out dust, moisture and exhaust fumes. This plate will not be installed under flooring material.

g. Cove molding or watertight sealant will be used along the sidewalls and rear corners. All joints or seams in the floor covering will be covered with nonferrous metal stripping or stripping constructed of material exhibiting equal durability and sealing qualities.

44.3(23) Frame.

a. The steel frame will have design and strength characteristics corresponding at least to standard practice for trucks of the same general load characteristics that are used for highway service.

b. Any secondary manufacturer that modifies the original chassis frame will guarantee the performance of workmanship and materials resulting from such modification.

c. Extensions of frame lengths are permissible only when alterations are behind the rear hanger of the rear spring or in front of the front hanger of front spring and will not be for the purpose of extending the wheelbase.

d. Holes in top or bottom flanges or side units of the frame and welding to the frame will not be permitted except as provided or accepted by the chassis manufacturer.

e. Frame lengths are to be established in accordance with the design criteria for the complete vehicle.

44.3(24) Fuel system.

a. The fuel system will comply with FMVSS No. 301, Fuel System Integrity. On Type A-1 and A-2 vehicles, the fuel tank may be of the manufacturer's standard construction.

b. On chassis with a wheelbase greater than 170 inches, at least one fuel tank of 60-gallon capacity will be provided and installed by the manufacturer. Chassis with a wheelbase of 170 inches or less will be equipped with at least one fuel tank of 25-gallon minimum capacity, as provided and installed by the manufacturer.

c. The fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle by the manufacturer. Tanks are to be mounted directly to the chassis frame, filled, and vented outside the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

d. Fuel filtration is to be accomplished by means of the following:

(1) Gasoline-powered systems—one in-line fuel filter is to be installed between the fuel tank and the engine.

(2) Diesel-powered systems—one mounted fuel filter with water/fuel separator is to be supplied and installed by the engine manufacturer.

44.3(25) Fuel system, alternative fuels. An alternative fuel is defined as liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, methanol,

ethanol, clean diesel, biodiesel, reformulated gasoline, or any type of hybrid system. Vehicles that operate on an alternative fuel are to meet the following provisions:

- a.* Chassis will meet all standards of this rule.
- b.* Chassis will meet all applicable FMVSS standards including the fuel system integrity standards of FMVSS No. 301 or FMVSS No. 303 and FMVSS No. 304.
- c.* OEMs and conversion systems using CNG or LPG will comply with NFPA standards in effect at the time of manufacture (Standard 52, “Compressed Natural Gas Vehicular Fuel Systems,” and Standard 58, “Liquefied Petroleum Gases Engine Fuel Systems”).
- d.* LNG-powered buses will comply with NFPA Standard 57, “Liquefied Natural Gas Vehicular-Fueled Systems,” and be equipped with an interior/exterior gas detection system. All natural gas-powered buses will be equipped with a fire detection and suppression system.
- e.* All materials and assemblies used to transfer or store alternative fuels are to be installed outside the passenger/driver compartment.
- f.* The total weight will not exceed the GVWR when loaded to rated capacity.
- g.* The manufacturer supplying the alternative fuel equipment are to provide the owner and operator with adequate training in fueling procedures, scheduled maintenance, troubleshooting, and repair of alternative fuel equipment. Overflow protection device (OPD) testing are to be done yearly by a tester trained in this procedure and whose training has been documented. Documentation of the annual OPD valve test will be a label or identification tag affixed to the step well of the bus, signed and dated by the test person with permanent marker. The label will indicate the expiration date of the successful test.
- h.* All on-board fuel supply containers will meet all appropriate provisions of the ASME code, the DOT regulations, or applicable FMVSS and NFPA standards.
- i.* All fuel supply containers will be securely mounted.
- j.* All safety devices that may discharge to the atmosphere will be vented to the outside of the vehicle. The discharge line from the safety relief valve on all school buses will be located in a manner appropriate to the characteristics of the alternative fuel. Discharge lines are not to pass through the passenger compartment and are to be kept clear with flapper-valve or other device that will allow low-pressure discharge but prevent clogging by foreign matter or insects.
- k.* A positive, quick-acting ($\frac{1}{4}$ turn), shut-off control valve will be installed in the gaseous fuel supply lines as close to the fuel supply containers as possible. The controls for this valve are to be placed in a location easily operable from the exterior of the vehicle. The location of the valve control will be clearly marked on the exterior surface of the bus.
- l.* A grounding system is required for grounding of the fuel system during maintenance-related venting.
- m.* Storage batteries for hybrid power systems will be protected from crash impacts; encased in a nonconductive, acid-resistant compartment; and well-ventilated to preclude the possibility of hydrogen gas buildup.
- n.* Additional specific specifications for electric vehicles.
 - (1) All electric school bus systems will be in full compliance with all applicable FMVSS and all Society of Automotive Engineers (SAE) standards that are applicable at time of manufacture.
 - (2) Batteries of high voltage will meet manufacturer’s specifications and comply with the following provisions:
 1. The propulsion power source (batteries, fuel cells, etc.) will be located outside the passenger compartment and not be accessible from the interior of the school bus. The power source will be located in between or under chassis frame rails protected by a steel cage. Extended range power sources, if located outside the frame rails, will be protected by a steel cage.
 2. High voltage batteries will have a main service disconnect device that does not allow high voltage outside the battery system. This disconnect device will not be in or accessible from the passenger area. Any disconnect device will be clearly marked on the bus body adjacent to each cutoff switch and easily recognized in the event of a crash.
 3. High voltage batteries will be designed to prevent the passenger compartment from becoming energized.

4. All batteries will be designed to prevent any dangerous fluids or fumes from entering the passenger area.

5. All high voltage access areas, including the charging port, will be equipped with a lock or otherwise secured to prevent unauthorized access.

(3) Batteries of low voltage will have a low voltage battery shutoff switch installed in the vicinity of the low voltage battery compartment in an area not easily accessible to the driver or passengers. The location of the low voltage battery shutoff switch will be clearly labeled on the exterior of the vehicle.

(4) The charging system will comply with the following provisions:

1. The charging connection point will be outside the passenger compartment.

2. While charging, the transmission/propulsion system will be rendered inoperative.

3. The charging port will be located behind a door or an access panel in accordance with manufacturer standards, with the door or access panel clearly labeled with the location of the charging port. The port will include a status light to indicate the charging status of the battery.

(5) A DC-DC converter will be provided and deliver a minimum of 200 amps at 12VDC. The converter system will incorporate a ground fault interrupt (GFI) that disconnects/isolates the high voltage batteries in the event of a shorted circuit or water intrusion.

(6) Heaters will be capable of heating the passenger and driver's compartments to a comfortable temperature.

(7) The ignition switch circuit will be linked to the battery management system and will prevent the driving of the vehicle while it is connected to an external battery charging source and designed so that when the ignition switch is off, the high voltage is positively disconnected.

(8) The instrument panel will monitor and display battery health. This displayed information will include:

1. High voltage battery state of charge and range in miles.

2. Electric motor temperature.

3. Battery discharge and regeneration rates.

4. Battery health (as applicable: temperature, battery cell balancing, etc.).

(9) Electric vehicles will comply with all identification per subrule 44.3(34). The bus will also display specific electric vehicle markings as provided below.

1. The outer layer of insulation or wiring conduit for drive system high-voltage wiring will be industry standard orange color or otherwise labeled as "HIGH VOLTAGE".

2. All high-voltage components will be labeled with a "HIGH VOLTAGE" marking/warning. Each door, cover, or other panel or enclosed compartment that affords immediate access to any high voltage area will be plainly marked with a hazard warning label that reads "WARNING—HIGH VOLTAGE" or "DANGER—HIGH VOLTAGE". This label will be located in a highly conspicuous place.

3. An electric vehicle identifying label of no less than 2 inches in height will be affixed on the right rear corner of the bus body, on the right side of the bus rearward of the entrance door, and to the left side of the bus aft of the driver's window.

4. Additional lettering/imagery may be located on both sides of the bus along the roof cap starting above the service door and ending no further back than the forward edge of the second passenger window, but none is to be placed on/in any window.

5. Electric vehicle image graphics may be used in combination with words.

(10) The operating range will be OEM design and capable of operating with a range of 100 miles or more.

(11) The propulsion/drivetrain system is exempted from all internal combustion engine specifications.

(12) All seats will be mounted to eliminate contact with batteries and underside of the bus if seat replacement or reconfiguration is necessary.

(13) All electric school buses will produce adequate sound for pedestrian alert while in motion below 20 miles per hour.

(14) Overall system protection will include:

1. Wire, cable, and conductor insulation in the high voltage system will provide adequate insulation for the voltage used and for ambient temperatures ranging from -15°F to 120°F.

2. All high voltage circuits will provide adequate and automatic protection against electrical overloads or malfunctions caused by short circuits, charging/discharging faults, battery overheating, electrical overheating, degraded battery health, or other excessive current conditions through the use of fuses, circuit breakers, and ground fault interruption.

3. Prior to any type of automatic shutdown, a warning or maintenance indicator will display in the driver console to notify the driver of impending shutdown or the need for immediate maintenance and allow enough time to safely reposition and stop the bus via a gradual derating of propulsion prior to complete automatic shutdown.

44.3(26) Fuel system, fuel fill opening and cover. Where an opening in the school bus body skirt is needed for access to the fuel fill cap, the opening will be large enough to permit filling the fuel tank without the need for special fuel nozzle adapters, a funnel, or other device. The opening will be equipped with a forward hinged cover held closed by a spring or other conveniently operated device. The cover may be of a lockable design. Type A buses are exempt from the requirement of a cover.

44.3(27) Governor. An electronic engine speed limiter will be provided and set to limit engine speed, not to exceed the maximum revolutions per minute as recommended by the engine manufacturer.

44.3(28) Handrails. At least one handrail is to be installed. The handrail will be a minimum of 1 inch in diameter and be constructed from corrosion-resistant material(s). The handrail(s) will be designed to assist passengers during entry or exit and to prevent entanglement, as evidenced by the passing of the National Highway Traffic Safety Administration (NHTSA) string and nut test.

44.3(29) Heating and air conditioning.

a. The heater will be hot-water combustion type, electric heating element, or heat pump.
b. If only one heater is used, it will be a fresh-air or combination fresh-air and recirculation type.
c. If more than one heater is used, additional heaters may be recirculating air type.
d. The heating system will be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.

e. Auxiliary fuel-fired heating systems are permitted, provided that they comply with the following:

(1) Heater(s) may be direct hot air or connected to the engine's coolant system.
(2) An auxiliary heating system, when connected to the engine's coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus's heating system.
(3) Auxiliary heating systems must be installed pursuant to the manufacturer's recommendations and will not direct exhaust in a manner that will endanger bus passengers.

(4) Auxiliary heating systems that operate on diesel fuel are to be capable of operating on #1, #2 or blended diesel fuel without the need for system adjustment.

(5) The auxiliary heating system is to be low voltage.

(6) Auxiliary heating systems will comply with all applicable FMVSS including FMVSS No. 301 as well as SAE test procedures.

f. Heater hoses will be adequately supported to guard against excessive wear due to vibration. The hoses will not dangle or rub against the chassis or any sharp edges and not interfere with or restrict the operation of any engine function. Heater hoses will conform to SAE Standard J20c, "Coolant System Hoses." Heater lines, cores, and elements on the interior of the bus are to be shielded to prevent scalding or burning of the driver or passengers.

g. Each hot water system installed by a body manufacturer will include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all Type A and B buses, the valves may be installed in another accessible location.

h. Each hot water heating system will be equipped with a device that is installed in the hot water pressure line that regulates the water flow to all heaters and that is located for convenient operation by the driver while seated.

i. All combustion heaters will comply with current Federal Motor Carrier Safety Regulations.

j. Accessible bleeder valves will be installed in an appropriate place in the return lines of body manufacturer-installed heaters to remove air from the heater lines.

k. Access panels will be provided to make heater motors, cores, elements, and fans readily accessible for service. An outside access panel may be provided for the driver's heater.

l. Air-conditioning systems may be installed in accordance with the following:

(1) Evaporator cases, lines and ducting (as equipped) will be designed so that all condensation is effectively drained to the exterior of the bus below floor level under all conditions of vehicle movement without leakage on any interior portion of the bus.

(2) Any evaporator or ducting system will be designed and installed so as to be free of injury-producing projections or sharp edges. Installation will not reduce compliance with any FMVSS applicable to the school bus. Ductwork will be installed so that exposed edges face the front of the bus and do not present sharp edges.

(3) Any evaporators used are to be copper-cored (aluminum or copper fins acceptable), except that the front evaporator, if provided by a Type A chassis manufacturer, may be aluminum-cored.

(4) Air intake for any evaporator assembly(ies) except for the front evaporator of a Type A bus will be equipped with replaceable air filter(s) accessible without disassembly of the evaporator case.

(5) On buses equipped for the transportation of persons with disabilities, the evaporator and ducting will be placed high enough so that they will not obstruct existing or potential occupant securement shoulder strap upper attachment points. This clearance will be provided along the entire length of the passenger area on both sides of the bus interior to allow for potential retrofitting of new wheelchair positions and occupant securement devices throughout the bus.

(6) The total air-conditioning system will be warranted, including parts and labor, for at least two years and include compressor-mounting bracketry and hardware and any belts that, directly or indirectly, drive the compressor(s). Air-conditioning compressor applications are to be approved in writing by the chassis engine manufacturer, stating that the installations will not void or reduce the engine manufacturer's warranty or extended service coverage liabilities in any way.

(7) All components requiring periodic servicing are to be readily accessible for servicing.

(8) Parts and service manuals are to be provided for the entire system including compressor(s), wiring (includes wiring diagram), evaporators, condensers, controls, hoses and lines.

(9) Electrical requirements for the air-conditioning system will be provided to the customer prior to vehicle purchase or, in the case of an after-purchase installation, prior to installing the air-conditioning system to ensure that adequate electrical demands imposed by the air-conditioning system are capable of being met.

(10) The installed air-conditioning system should cool the interior of the bus down to at least 80 degrees Fahrenheit, measured at a minimum of three points, located 4 feet above the floor at the longitudinal centerline of the bus. The three points are near the driver's location; at the midpoint of the body; and 2 feet forward of the emergency door, or for Type D rear engine buses, 2 feet forward of the end of the aisle. Test conditions will be those as outlined in the National School Transportation Specifications and Procedures Manual 2015.

44.3(30) Heating system, provisions for:

a. The engine is to be capable of supplying coolant per SBMTC-001, Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment, of the School Bus.

b. For Type A vehicles with GVWR of 10,000 pounds or less, the chassis manufacturer will provide a fresh-air front heater and defroster of recirculating hot water type. See also subrules 44.3(13) and 44.3(29).

44.3(31) Headlamps.

a. The headlamp switch will be of adequate ampere capacity to carry the load of the clearance and identification lamps in addition to the headlamps and tail lamps since these will be activated by the same switch.

b. There will be a manually operated switch for selection of high- or low-beam distribution of the headlamps.

c. The headlight system will be wired separately from the body-controlled solenoid.

d. A daytime running lamp (DRL) system will be provided.

44.3(32) Hinges. All exposed metal passenger-door hinges subject to corrosion will be designed to allow lubrication without disassembly. All passenger-door hinges will be securely bolted to the bus body. Metal screws are not acceptable.

44.3(33) Horn. The bus is to be equipped with a horn(s) of standard make and tested in accordance with SAE J377, Horn—Forward Warning—Electric—Performance, Test, and Application.

44.3(34) Identification.

a. The body will bear the words “SCHOOL BUS” in black letters at least 8 inches high on both front and rear of the body or on attached signs. The lettering is to be placed as high as possible without impairment of its visibility. The lettering will conform to Series B of Standard Alphabets of Highway Signs. “SCHOOL BUS” lettering will have a reflective background or, as an option, may be illuminated by backlighting.

b. The bus, whether school-owned or contractor-owned, will have displayed at the beltline on each side of the vehicle the official public school district or nonpublic school name in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

Examples:

- (1) Blank community school district.
- (2) Blank independent school district.
- (3) Blank consolidated school district.

If there is insufficient space due to the length of the name of the school district, the words “community,” “independent,” “consolidated,” and “district” may be abbreviated. If, after these abbreviations, there is still insufficient space available, the words “community school district” may be replaced by the uppercase letters “CSD”.

c. Buses privately owned and operated by an individual or individuals and used exclusively for transportation of students will bear the name of the owner, at the beltline on each side of the vehicle in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

d. The words “RATED CAPACITY,” along with the appropriate number indicating the rated pupil seating capacity of the bus, are to be printed to the left of the entrance door, at least 6 inches below the name of the school district and on the bulkhead of the bus above the right windshield. The letters will be black in color and at least 2 inches in height. The word “CAPACITY” may be abbreviated and shown as “CAP.” where necessary.

e. The number of the bus will be printed in not less than 5-inch nor more than 8-inch black letters, except as otherwise noted in this subrule, and displayed on both sides, the front and the rear of the bus. The location of the bus number is at the discretion of the vehicle owner except that the number:

- (1) Will be located to the rear of the service door not more than 36 inches from the ground on the right side of the bus and at the same respective position on the left side of the bus.
- (2) Will be yellow if located on either the front or rear bumper.
- (3) May be placed on the roof of the bus at a position representing the approximate lateral and longitudinal midpoint of the bus. The bus number will be black and measure not less than 24 inches in length.

(4) Will not be located on the same line as the name of the school district on either side of the bus, on the emergency door, or in a location that will interfere with the words “SCHOOL BUS.”

f. Buses privately owned by individuals, a company, or a contractor will also bear the name of the owner, followed by the word “OWNER” in not more than 2-inch characters printed approximately 6 inches below the bus capacity on the right side of the bus.

g. Symbols, characters or letters, for the purpose of vehicle or route identification by students, may be displayed below the belt line or in the lower, split-sash, glass portion of the third passenger window from the front on the service entrance side of the bus. Such symbols, characters or lettering, if used, will not exceed 36 square inches. This provision applies to all school buses regardless of date of purchase.

h. Symbols identifying the bus as equipped for or transporting students with special needs will be displayed. See subrule 44.4(2).

i. The words “UNLAWFUL TO PASS WHEN LIGHTS FLASH” is to be displayed on the rear emergency door of the bus between the upper and lower window glass sections. The letters are to be black and not less than 2 inches nor more than 6 inches in height. If there is not sufficient space on the emergency door, letter size may be reduced upon approval of the department of education.

j. The word “BATTERY” in 2-inch black letters will be placed on the door covering the battery opening.

k. Pressure-sensitive markings of vinyl material may be used for the lettering mentioned in this subrule in lieu of painting.

l. Any lettering, including the name of the school’s athletic team(s), numbers, drawings, bumper stickers, characters, holiday decorations, or mascot symbols other than the bus manufacturer’s registered trademarks or those specifically noted in paragraphs 44.3(35) “a” through “k” above are prohibited.

m. Fuel type will be clearly displayed in 2-inch letters either on the fuel door or directly above the fuel door. Examples:

Gasoline or Gasoline Only

Diesel or Diesel Fuel or Diesel Only

Propane or Propane Only

Diesel Exhaust Fluid (DEF)

n. A “No Trespassing” sign may be affixed to the face of the top step in 2-inch black letters on a white background.

44.3(35) Instruments and instrument panel.

a. Chassis will be equipped with an instrument panel having, as a minimum, the following instrumentation: (Lights in lieu of gauges are not acceptable except as noted.)

(1) Speedometer.

(2) Odometer with accrued mileage including tenths of miles unless tenths of miles are registered on a trip odometer.

(3) Voltmeter with graduated scale.

(4) Oil pressure gauge.

(5) Water temperature gauge.

(6) Fuel gauge.

(7) High-beam headlamp indicator.

(8) Air pressure gauge, where air brakes are used. A light indicator in lieu of a gauge is permitted on vehicles equipped with hydraulic-over-hydraulic brake system.

(9) Turn signal indicator.

(10) Glow-plug indicator light, where appropriate.

(11) Tachometer required on vehicles 14,500 pounds GVWR and greater.

b. Gauges will be displayed as single-gauge installations or as gauges contained in a multifunction instrument display. The multifunction instrument display will comply, as a minimum, with the following design criteria:

(1) The driver must be able to manually select any displayable function of the gauge on a multifunction display whenever desired.

(2) Whenever an out-of-limits condition occurs, which would be displayed on one or more functions of a multifunction gauge, the multifunction gauge controller should automatically display this condition on the instrument cluster. This should be in the form of an illuminated warning light as well as having the multifunction gauge automatically display the out-of-limits indications. Should two or more functions displayed on the multifunction gauge go out of limits simultaneously, the multifunction gauge should automatically sequence between those functions continuously until the condition(s) is corrected.

(3) The use of a multifunction instrument display does not relieve the requirement of audible warning devices pursuant to this subrule.

c. All instruments will be easily accessible for maintenance and repair.

d. Instruments and gauges will be mounted on the instrument panel so each is clearly visible to the driver in a normal seated position.

e. The instrument panel will have rheostatically controlled lamps of sufficient candlepower to illuminate all instruments, gauges, and the shift selector indicator for automatic transmission.

44.3(36) Insulation.

a. Thermal insulation in the ceiling and walls will be fire-resistant, UL-approved, and approximately 1½-inch thick with a minimum R-value of 5.5. Insulation will be installed in such a way as to prevent it from sagging.

b. Roof bows will be insulated in accordance with paragraph 44.3(36)“a.”

44.3(37) Interior.

a. The interior of the bus is to be free of all unnecessary projections, including luggage racks and attendant handrails, to minimize the potential for injury. This standard requires inner lining on ceilings and walls. If the ceiling is constructed to contain lapped joints, the forward panel will be lapped by the rear panel and exposed edges will be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and tow chains. See also subrule 44.3(61).

b. Radio speakers are permitted in the passenger compartment area only. No radio speaker, other than that which is necessary for use with two-way communication equipment, will be located within the driver’s compartment area. All radio speakers will be flush-mounted with the roof or side panels and free of sharp edges.

c. The driver’s area forward of the foremost padded barriers will permit the mounting of required safety equipment and vehicle operation equipment.

d. Every school bus will be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source does not exceed 85 dBA when tested according to the procedure found in Appendix B, National School Transportation Specifications and Procedures Manual 2015.

e. An access panel will be provided, front and rear, so lights and wiring for the 8-light warning system may be repaired or serviced without removing ceiling panels.

f. Ceiling material designed to reduce noise within the driver compartment or passenger compartment may be installed by the manufacturer.

g. An electronic “child check” monitor will be installed. This monitor will operate in such a way as to require the driver to physically walk to the back of the bus to disengage the monitor system after having first shut off the engine of the bus.

h. Mobile Wi-Fi Internet and USB ports are allowed, in accordance with other provisions of subrule 44.3(37).

i. On-board interior bus camera heads are allowed within the passenger area of the bus. Camera heads are not to extend more than 1½ inches from the ceiling and are to have rounded edges as much as possible. Camera heads will not be mounted directly above the aisle. Exterior cameras are allowed.

j. Electronic student detection systems are allowed on both the interior and exterior of the bus. Interior systems will detect students left behind after the bus is shut off. Exterior systems will detect students in the danger zones.

44.3(38) Lamps and signals.

a. All lamps and lamp components will meet or exceed applicable standards established by the Society of Automotive Engineers (SAE), the American Association of Motor Vehicle Administrators (AAMVA), and FMVSS. These lamps will be of incandescent or LED design.

b. Clearance lamps. The body will be equipped with two amber clearance lamps at the front and two red clearance lamps at the rear mounted at the highest and widest portion of the body.

c. Identification lamps. The bus will be equipped with three amber identification lamps on the front and three red identification lamps on the rear. Each group will be evenly spaced not less than 6 or more than 12 inches apart along a horizontal line near the top of the vehicle.

d. Intermediate side marker lamps. On all buses over 30 feet long, one amber side lamp is necessary on each side, located midway between the front and rear clearance lamps.

e. Stop/tail (brake) lamps. Buses will be equipped with four combination, red stop/tail lamps meeting SAE specifications. Each lamp will have double filament lamp bulbs or LEDs that are connected to the headlamp and brake-operated stop lamp circuits. These should be positioned as follows:

(1) Two combination lamps with a minimum diameter of 7 inches or, if a shape other than round, a minimum of 38 square inches of illuminated area will be mounted on the rear of the bus just to the inside of the turn signal lamps.

(2) Two combination lamps with a minimum diameter of 4 inches or, if a shape other than round, a minimum of 12 square inches of illuminated area will be mounted on the rear of the body between the beltline and the floor line. The rear license plate lamp may be combined with one lower tail lamp. Stop lamps will be activated by the service brakes and emit a steady light when illuminated. Type A-2 buses with bodies supplied by the chassis manufacturer may have the manufacturer's standard stop and tail lamps.

f. Items described in paragraphs 44.3(38) "b," "c," "d," and "e" will be connected to the headlamp switch.

g. Backup lamps. The bus body will be equipped with two white rear backup lamps. All vehicles will be equipped with lamps at least 4 inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area. All lamps will have a white or clear lens and meet SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they will be to the inside. Exterior perimeter lighting behind rear axle, activated by reverse switch, is allowed.

h. Interior lamps. Interior lamps will be provided that adequately illuminate the interior aisle and the step well. Step well lights and exterior boarding lights are required and will be illuminated by a service door-operated switch, to illuminate only when headlights and clearance lights are on and the service door is open. In addition, the following interior lamps will be provided:

(1) Supervisor's light. The rearmost ceiling light or a separate light may be used as a supervisor's light and will be activated by a separate switch controlled by the driver.

(2) Driver's area dome light. This light will have a separate switch controlled by the driver and illuminate the driver's compartment area.

(3) Body instrument panel lights will be controlled by a rheostat switch.

(4) On buses equipped with a monitor for the front and rear lamps of the school bus, the monitor will be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit will be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

i. License plate lamp. The bus will be equipped with a rear license plate illuminator. This lamp may be combined with one of the tail lamps.

j. Reflectors. Reflectors will be securely attached to the body with sheet metal screws or another method having equivalent securement properties and installed in accordance with the requirements of FMVSS No. 108; however, the vehicle will, as a minimum, be equipped with the following:

(1) Two amber reflectors, one on each side at the lower front and corner of the body approximately at floor level and back of the door on the right side, and at a similar location on the left side. For all buses over 30 feet long, an additional amber reflector is necessary on each side at or near the midpoint between the front and rear side reflectors.

(2) Four red reflectors, one at each side at or near the rear and two on the rear, one at each side.

(3) Reflectors are to be mounted at a height not more than 42 inches or less than 30 inches above the ground on which the vehicle stands.

k. Warning signal lamps.

(1) Buses will be equipped with two red lamps at the rear of the vehicle and two red lamps at the front of the vehicle.

(2) In addition to the four red lamps described above, four amber lamps will be installed so that one amber lamp is located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red and amber signal lamps will be wired so that amber lamps are energized manually and the red lamps are automatically energized (sequential), with amber lamps being automatically de-energized, when the stop signal arm is extended or when the bus service door is

opened. An amber pilot light and a red pilot light will be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

(3) The area immediately around the lens of each alternately flashing signal lamp is to be black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of the lamp, there will be a circular or square band of black immediately below and to both sides of the lens, on the body or roof area against which the signal lamp is seen from a distance of 500 feet along the axis of the vehicle. Black visors or hoods, with a minimum depth of 4 inches, may be provided.

(4) Red lamps will flash at any time the stop signal arm is extended.

(5) All flashers for alternately flashing red and amber signal lamps will be enclosed in the body in a readily accessible location.

(6) Strobe lights are permissible.

(7) Additional electronic/lighted warning devices mounted on the rear of the bus are allowed. Each design will be evaluated and approved by Iowa department of education personnel per established criteria.

(8) Supplemental warning lights may be installed by the vehicle owner. The supplemental warning lights may be mounted to the front and rear of all Type A, B, C and D school buses and will meet the following provisions:

1. Will be wired into the existing 8-way warning light system, operate only with the existing red lights of that system, and use the same flash pattern.

2. Will be a four-light system (two front, two rear) and will not be mounted directly to either the front or rear bumper.

- Front lights will be located between the outer edge of the grill opening and the outer edge of the headlight(s), and sit horizontally rather than vertically. The lens of the light will be approximately perpendicular to the ground and to the outside edge of the bus body.

- Rear lights will be located 1 inch to 3 inches above the bumper, with a maximum of 4 inches above the bumper; will be located at least 1 inch inboard from the outside edge of the bus, but left and right of the emergency door; and will sit horizontally rather than vertically. The lens of the light will be approximately perpendicular to the ground and to the outside edge of the bus body.

l. Turn signal lamps.

(1) The bus body will be equipped with amber rear turn signal lamps that meet SAE specifications and are at least 7 inches in diameter or, if a shape other than round, a minimum of 38 square inches of illuminated area. These signal lamps will be connected to the chassis hazard warning switch to cause simultaneous flashing of turning signal lamps when needed as a vehicular traffic hazard warning. Turn signal lamps are to be placed as far apart as practical, and their centerline will be approximately 8 inches below the rear window. Type A-2 conversion vehicle lamps will be at least 21 square inches in lens area and in the manufacturer's standard color.

(2) Buses will be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side will be mounted rearward of the stop signal arm, and the turn signal lamp on the right side will be mounted rearward of the service door.

m. A white flashing strobe light rated for outdoor use and weather-sealed will be installed on the roof of the bus not less than 1 foot or more than 18 inches from the rear center of the bus. The strobe light will be located to the rear of the rearmost emergency roof hatch to prevent the roof hatch from diminishing the effectiveness of the strobe light. In addition:

(1) The strobe light will have a single clear lens emitting light 360 degrees around its vertical axis and will not extend above the roof more than the maximum legal height pursuant to Iowa Code section 321.456.

(2) The strobe light will be controlled by a separate switch with an indicator light that when lit will indicate that the strobe light is turned on.

(3) The light will be used in fog, rain, snow, or at times when visibility is restricted. The light may also be used as determined to be appropriate.

(4) Each model strobe light will meet the provisions of SAE J845 Class 1.

n. Pedestrian safety crossing lights are allowed and will activate automatically in conjunction with the stepwell and boarding lights.

44.3(39) Measurements.

a. Interior body height will be 72 inches or more, measured metal to metal, at any point on the longitudinal centerline from the front vertical bow to the rear vertical bow. Inside body height of Type A-2 buses will be 62 inches or more.

b. Overall height, length and width of the bus will not exceed the maximums allowed by the department of transportation.

44.3(40) Metal treatment.

a. All metal, except high-grade stainless steel or aluminum, used in construction of the bus body will be zinc-coated or aluminum-coated to prevent corrosion. This provision applies to such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

b. All metal parts that will be painted will be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed to improve paint adhesion.

c. In providing for these provisions, particular attention will be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas, and surfaces subjected to abrasion during vehicle operation.

d. As evidence that the above requirements have been met, samples of materials and sections used in construction of the bus body will be subjected to cyclic corrosion testing as outlined in SAE J1563.

44.3(41) Mirrors.

a. The interior mirror will be either clear view laminated glass or clear view glass bonded to a backing that retains the glass in the event of breakage. The mirror will have rounded corners and protected edges. All Type A buses will have a minimum of a 6-inch × 16-inch mirror; and Type B, C, and D buses will have a minimum of a 6-inch × 30-inch mirror.

b. Each school bus will be equipped with exterior mirrors meeting the requirements of FMVSS No. 111. Mirrors will be easily adjustable, but rigidly braced so as to reduce vibration.

c. All exterior mirrors will be heated.

d. Systems offering a design feature permitting the driver to remotely adjust rearview mirrors from the driver's compartment will be utilized.

e. The right-side rearview mirrors will be unobstructed by the unwiped section of the windshield.

f. Stainless steel mirror brackets are allowed.

g. An interior mirror utilizing a secondary screen linked to an exterior camera is allowed. However, the secondary screen must revert to a mirror status when the bus is moving forward.

44.3(42) Mounting.

a. The chassis frame will support the rear body cross member. Except where chassis components interfere, the bus body will be attached to the chassis frame at each main floor sill in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.

b. Isolators will be placed at all contact points between the body and chassis frame and secured by a positive means to the chassis frame or body to prevent shifting, separation, or displacement of the isolators under severe operating conditions.

c. The body front will be attached and sealed to the chassis cowl to prevent entry of water, dust, and fumes through the joint between the chassis cowl and body.

d. The refurbishing or reconditioning of a body-on-chassis school bus is limited to the repair and replacement of school bus body or chassis components. The original body and chassis, as certified by the OEMs, will be retained as a unit upon completion of repairs. It is not permissible to exchange or interchange school bus bodies and chassis. The refurbisher or reconditioner will certify that the vehicle meets all state and federal construction standards in effect as of the date of manufacture and will provide suitable warranty on all work performed. See also subrule 44.6(1).

44.3(43) Mud flaps.

a. Mud flaps or guards are required and provided and installed by the body manufacturer or manufacturer's representative for both front and rear wheels.

b. Front mud flaps or guards will be of adequate size to protect body areas vulnerable to road debris from wheels and mounted so as to be free of wheel movement at all times.

c. Rear mud flaps or guards will be comparable in size to the width of the rear wheelhousing and reach within approximately 9 inches of the ground when the bus is empty. They will be mounted at a distance from the wheels to permit free access to spring hangers for lubrication and maintenance and to prevent their being damaged by tire chains or being pulled off while the vehicle is in reverse motion.

d. All mud flaps will be constructed of rubber or a rubber composite. Vinyl or plastic is not acceptable.

44.3(44) Openings. All openings in the floorboard or fire wall between the chassis and passenger compartment, such as for gearshift selector and parking brake lever, will be sealed.

44.3(45) Passenger securement seating system.

a. All vehicles will conform to all FMVSS at date of manufacture.

b. Unless otherwise provided by FMVSS, school bus seats may be equipped with passenger securement systems for passengers with disabilities in accordance with 281—Chapter 41 when the child's individual education program staffing team determines that special seating and positioning are necessary during transportation. When a child securement system is necessary, the seat, including seat frame, seat cushion, belt attachment points, belts and hardware, will comply with all applicable FMVSS at the time of manufacture.

c. Children transported in child safety seats will be secured to a school bus seat utilizing a seat belt-ready seat frame, according to the child safety seat manufacturer's instructions.

44.3(46) Public address system. A public address system permitting interior, exterior or both interior and exterior communication with passengers may be installed.

44.3(47) Radio/communication system. Each school bus will have a communication system to allow communication between the driver of the bus and the school's base of operations for school transportation. This system will be a two-way radio, cellular phone, or similar device as allowed by local and state policies regarding use of handheld communication equipment.

44.3(48) Retroreflective material.

a. Retroreflective material will be provided in accordance with the following:

(1) The rear of the bus body is marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material that conforms with the requirements of FMVSS No. 131. The perimeter marking of rear emergency exits per FMVSS No. 217 or the use of retroreflective "SCHOOL BUS" signs partially accomplish the objective of this provision. To complete the perimeter marking of the back of the bus, strips of retroreflective NSBY material, a minimum of 1 inch and a maximum of 2 inches in width, is applied horizontally above the rear windows and above the rear bumper, extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus. Vertical strips are applied at the corners connecting these horizontal strips. Multifunction school activity buses (MFSABs) are exempt from these color requirements.

(2) "SCHOOL BUS" signs, if not of lighted design, are marked with reflective NSBY material comprising background for lettering of the front and rear "SCHOOL BUS" signs.

(3) Sides of the bus body are marked with reflective NSBY material at least 1¾ inches in width, extending the length of the bus body and located within 6 inches above or below the floor line or on the beltline.

b. Front and rear bumpers may be marked diagonally 45 degrees down to centerline of pavement with 2-inch +/- ¼ inch wide strips of noncontrasting reflective material. This material will appear black during daylight hours; however, it will be seen as a reflective material during periods of reduced light conditions when a direct light source strikes the material.

44.3(49) Road speed control. A road speed control device or a vehicle cruise control may be utilized.

44.3(50) Rub rails.

a. One rub rail located on each side of the bus at, or no more than 8 inches above, the seat level will extend from the rear side of the entrance door completely around the bus body (except for emergency door or any maintenance access door) to the point of curvature near the outside cowl on the left side.

b. One rub rail located at, or no more than 10 inches above, the floor line will cover the same longitudinal area as the upper rub rail, except at wheelhousings, and will extend only to radii of the right and left rear corners.

c. Rub rails at or above the floor line will be attached at each body post and all other upright structural members.

d. Each rub rail will be 4 inches or more in width in its finished form, be of 16-gauge steel or suitable material of equivalent strength, and be constructed in corrugated or ribbed fashion.

e. Rub rails will be applied to outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this provision. For all buses using a rear luggage or rear engine compartment, rub rails need not extend around rear corners.

f. The bottom edge of the body side skirts will be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

g. Rub rails will be painted black or be covered with black retroreflective material.

44.3(51) Seating, crash barriers.

a. All school buses (including Type A) will be equipped with restraining barriers that conform to FMVSS No. 222.

b. Crash barriers will be installed conforming to FMVSS No. 222; however, all Type A-2 school bus bodies will be equipped with padded crash barriers, one located immediately to the rear of the driver's seat and one at the service door entrance immediately to the rear of the step well.

c. Crash barriers will be constructed with materials that enable the crash barriers and passenger seats to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2015. Fire block material, when used, will include the covering of seat bottoms.

d. All crash/restraining barriers will be the same height as the passenger seating height in the bus.

44.3(52) Seating, driver. Buses will be equipped with a Type 2 lap belt/shoulder harness seat belt assembly for the driver. This assembly may be integrated into the driver's seat. The seat belt assembly and anchorage will meet applicable FMVSS. The design will also meet the following additional provisions:

a. The lap portion of the belt will be anchored or guided at the seat frame by a metal loop or other such device attached to the right side of the seat to prevent the driver from sliding sideways out of the seat.

b. There will be a minimum of 7 inches of adjustment of the "D" loop of the driver's shoulder harness on a nonintegrated style of seat belt assembly.

c. The driver's seat belt assembly will incorporate high-visibility material. An audible alarm is also allowed.

44.3(53) Seating, passenger.

a. All seats, component parts, seat anchorage, cushion depth, seat back height, rump width, and seat-to-seat or seat-to-barrier measurements will comply with applicable federal requirements as of the date of manufacture, including FMVSS No. 217 and No. 222.

b. Seat-to-seat and seat-to-barrier measurements will be on a label permanently affixed to the bus.

c. Jump seats or portable seats are prohibited; however, use of a flip seat at any side emergency door location in conformance with FMVSS No. 222, including required aisle width to side door, is acceptable. Any flip seat will be free of sharp projections on the underside of the seat bottom. The underside of the flip-up seat bottoms will be padded or contoured to reduce the possibility of snagged clothing or injury during use. Flip seats will be constructed to prevent passenger limbs from becoming entrapped between the seat back and the seat cushion when in an upright position. The seat cushion will be designed to rise to a vertical position automatically when not occupied.

d. Passenger seats will be constructed with materials that enable them to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the most current National School Transportation Specifications and Procedures Manual. Fire block material, when used, will include the covering of seat bottoms.

e. Seat cushions will contain a positive locking mechanism that requires removal of a security device before the seat may be unlatched.

f. For Type C and D buses, the distance between the rearmost portion of the seat backs of the rear row of seats and outside rear of the bus body (rear seat buffer zone), measured at the floor line, will be at least 8 inches. For Type A buses, the distance will be at least 6 inches.

44.3(54) Seating, passenger restraints.

a. Lap belts will not be installed on passenger seats in large school buses (over 10,000 pounds GVWR) except in conjunction with child safety restraint systems that comply with the provisions of FMVSS No. 213, Child Restraint Systems.

b. Three-point lap-shoulder belts will be installed in all new buses. The restraint system shall include a flexible design feature, thus allowing three-two seating on the same 39-inch seat, depending on student size.

44.3(55) Shock absorbers. Buses will be equipped with double-action shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

44.3(56) Steering gear:

a. The steering gear will be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.

b. If external adjustments are necessary, the steering mechanism will be accessible.

c. No changes will be made in the steering apparatus, including the addition of spinners or knobs that are not approved by the chassis manufacturer.

d. There will be a clearance of at least 2 inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.

e. Power steering is required and will be of the integral type with integral valves. Electric power-assisted steering systems are allowed.

f. The steering system will be designed to provide a means for lubrication of all wear points, if wear points are not permanently lubricated.

g. Tilting and telescopic steering wheels are acceptable.

44.3(57) Steps.

a. The first step at the service door will be not less than 10 inches and not more than 14 inches from the ground when measured from the top surface of the step to the ground, based on standard chassis specifications, except that on Type D vehicles, the first step at the service door will be 11 inches to 16 inches from the ground. A step well guard/skid plate will be installed by the manufacturer on all Type D vehicles.

b. Step risers will not exceed a height of 10 inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

c. Steps will be enclosed to prevent accumulation of ice and snow. See subparagraph 44.4(2) "g"(1) for exception.

d. Steps will not protrude beyond the side body line.

44.3(58) Step treads.

a. All steps, including floor line platform area, will be covered with an elastomer floor covering having a minimum overall thickness of 3/16 inch.

b. The step covering will be permanently bonded to a durable backing material that is resistant to corrosion.

c. Step treads will have a 1/2-inch white or yellow nosing as an integral piece without any joint.

d. Step treads will have abrasion resistance, slip resistance, weathering resistance, and flame resistance as outlined in the National School Transportation Specifications and Procedures Manual 2015.

e. A 3-inch white or yellow rubber step edge at floor level, flush with the floor covering, will be provided.

f. Step treads will have a calculated burn rate of .01 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302, Flammability of Interior Materials.

g. A spray-on application type material that meets all other step tread requirements may be used in lieu of the floor covering described in paragraph 44.3(58) "a." The material will be applied not only to the interior surfaces of the service door step treads but also to the exterior if the exterior is not covered by undercoating.

44.3(59) Stirrup steps.

a. There will be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning.

b. Steps or cutouts are permitted in the front bumper only, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

44.3(60) Stop signal arm.

a. The stop signal arm will be a flat 18-inch octagon exclusive of brackets for mounting. Stop arms or other warning devices will not extend more than 30 inches beyond the side of the bus body. All lamps and lamp components will comply with the requirements of FMVSS No. 131.

b. Both surfaces of the sign will be covered with reflectorized material having a reflective capability equal to or exceeding that of 3M Corporation high-intensity sheeting.

c. The application of the reflective sheeting material will be in accordance with the sheeting manufacturer's suggested application process. All copy will be sharply defined and clean cut.

d. The stop arm blade will be mounted in the area below the driver's window on the left side of the bus.

e. A second stop signal arm will be installed on the left side at or near the left rear corner of Type C and D school buses and meet the requirements of FMVSS No. 131.

f. Each stop arm blade will be automatically extended upon activation of the red warning signal lamp system and remain extended until the red signal lamps are deactivated. In addition, each stop arm blade will be equipped with two double-faced, 4-inch, alternately flashing red lights. The use of strobe lamps in the stop arm blade is acceptable.

g. A wind guard will be installed that prevents air currents from circulating behind the blades.

h. The stop arm will be vacuum-, electric-, or air-operated; and the system will positively hold the sign in extended or retracted position to prevent whipping in the wind.

i. If the air for an air-operated stop arm comes from the regular air brake system, the body manufacturer will provide the necessary check valve and pressure reduction valve to safeguard the air supply for brake application.

j. The two double-faced, 4-inch flashing lights may be replaced with an LED illuminated, high-visibility display, spelling out the word "STOP" visible to the front and rear. This lighting system will comply with applicable FMVSS prior to installation.

44.3(61) Storage compartments.

a. A storage container for tools, tire chains, and tow chains may be located either inside or outside the passenger compartment; but, if inside, it will have a cover (seat cushion may not serve this purpose) capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.

b. Luggage compartments are allowed. Compartments will include a door and a means of holding the door in an open position when the compartment is being loaded or unloaded.

44.3(62) Suspensions. The capacity of springs or suspension assemblies will be commensurate with the chassis manufacturer's GVWR rating.

44.3(63) Sun shield.

a. For Type B, C, and D vehicles, an interior adjustable transparent sun shield not less than 6 inches × 30 inches with a finished edge will be installed in a position convenient for use by the driver. An interior adjustable transparent driver's side mounted sun shield of manufacturer's specification is allowed.

b. On all Type A buses, the sun shield will be the manufacturer's standard.

44.3(64) Tires and rims.

a. Tires and rims of the proper size and tires with a load rating commensurate with the chassis manufacturer's gross vehicle weight rating (GVWR) will be provided.

- b.* Tires will be of tubeless, steel-belted, radial (standard or low-profile) construction.
 - c.* “Bud” type, hub-piloted steel rims are required. Multipiece and “Dayton” rims are prohibited. Manufactured non-ferrous spacers are required between steel and aluminum rims.
 - d.* Dual tires will be provided on all vehicles listed in rule 281—44.2(285), except Type III and Type A1 vehicles.
 - e.* All tires on a vehicle will be of the same size, and the load range of the tires will meet or exceed the GVWR as specified in FMVSS No. 120.
 - f.* Spare tires are not necessary; however, if specified, the spare tire will be located outside the passenger compartment. The spare tire will not be attached to any part of the rear portion of the body including the emergency door, bumper or roof. If a tire carrier is necessary, it will be suitably mounted in an accessible location outside the passenger compartment.
 - g.* Recapped tires are permissible as replacements on equipment now in operation for use on rear wheels only, providing tires are guaranteed by the seller. Recapped tires are not permissible where single rear wheels are used.
 - h.* Tires, when measured on any two or more adjacent tread grooves, will have a tread groove pattern depth of at least 4/32 of an inch on the front wheels and 2/32 of an inch on the rear wheels. No measurement will be made where tire bars, humps, or fillets are located. On Type A-1 and Type A-2 buses, the tread groove pattern depth will be at least 4/32 of an inch. Where specific measurement points are provided by the tire manufacturer, they will be utilized in determining tires approved for service. This provision also applies to buses now in service.
 - i.* Tire pressure equalizing systems for dual rear wheels are acceptable.
 - j.* Wheel check indicators for lug nuts are allowed.
- 44.3(65) *Tow hooks, front.*** Tow eyes or hooks are necessary on Type B, C and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks will be installed by the manufacturer so as not to project beyond the front bumper.
- 44.3(66) *Tow hooks, rear.*** Two rear tow hooks are necessary on all school buses. Rear tow hooks will be attached to the chassis frame and located under the rear bumper so the hook portion is under the body.
- 44.3(67) *Traction-assisting devices.*** Traction-assisting devices including hopper-sanders, tire chains or automatic traction chains may be installed.
- 44.3(68) *Transmission.***
- a.* Automatic transmissions will provide for not less than three forward speeds and one reverse speed. The shift lever, if applicable, will provide a detent between each gear position when the gear selector quadrant and shift lever are not steering column-mounted.
 - b.* Automatic transmissions will have a transmission shifter interlock controlled by the application of the service brake to prohibit accidental engagement of the transmission.
- 44.3(69) *Trash container and holding device.***
- a.* When a trash container is placed on the school bus, it will comply with the following:
 - (1) Meet the requirements of FMVSS No. 302, Flammability of Interior Materials.
 - (2) Be no greater than 20-quart capacity.
 - (3) Be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement.
 - b.* The container will be placed in an accessible location in the driver’s compartment of the school bus subject to department of education approval. The container will not obstruct the aisle of the bus, access to safety equipment or passenger use of the service entrance door.
 - c.* Trash containers meeting the requirements of paragraph 44.3(69) “*a*” are allowable behind the rear seat.
- 44.3(70) *Turning radius.***
- a.* A chassis with a wheelbase of 264 inches or less will have a right and left turning radius of not more than 42½ feet, curb-to-curb measurement.

b. A chassis with a wheelbase of 265 inches or more will have a right and left turning radius of not more than 44½ feet, curb-to-curb measurement.

44.3(71) Undercoating.

a. The entire underside of the bus body, including floor sections, cross member and below floor line side panels, and chassis front fenders will be coated with rustproofing material for which the material manufacturer has issued to the bus body manufacturer a notarized certification that materials meet or exceed all performance standards of SAE J1959, Sept. 2003 Edition.

b. Undercoating material will be applied with suitable airless or conventional spray equipment to the undercoating material manufacturer's recommended film thickness and show no evidence of voids in cured film.

c. The undercoating material will not cover any exhaust components of the chassis.

d. If chassis is built as a separate unit, the chassis manufacturer or its agents are responsible for providing undercoating to the chassis areas.

44.3(72) Vandal lock.

a. The school bus may be equipped with a vandal locking system for securing the service entrance, emergency, and wheelchair lift door(s).

b. The vandal locking system will include the following design features:

(1) The entrance door is to be locked by an exterior key with a dead bolt, a remote control (cable) device or an electric device. The system is to prevent the door from being accidentally locked by any motion the bus may encounter during its normal operation. This provision does not apply to Type A vehicles with a left-side driver's door.

(2) When the bus is equipped with a rear-mounted engine, the emergency door and rear emergency exit window are to be locked by an interior slide bolt that will activate a buzzer when the door or emergency exit window is locked and the ignition of the bus is turned on. The locking mechanism is to be capable of being locked or unlocked without the use of a separate key or other similar device.

(3) The engine starting system of the bus will not operate if the rear or side emergency door or rear emergency exit window over the rear engine compartment is locked from either the inside or outside of the bus.

(4) Hasp-type devices is not to be attached to the bus for the purpose of securing any door or window.

44.3(73) Ventilation.

a. The body ventilation system on Type A, B, C and D buses will include one or more combination roof ventilation/emergency escape hatches in accordance with subrule 44.3(14). The ventilation system will be capable of being controlled and have sufficient capacity to maintain a proper quantity of air under operating conditions without the opening of windows except in extremely warm weather.

b. Each combination roof ventilation/emergency escape hatch will be installed by the school bus body manufacturer or the body manufacturer's approved representative and will have the following design and installation features:

(1) Multiposition fresh air ventilation.

(2) Release handle(s) permitting operation as an emergency exit(s), accessible inside and outside the vehicle.

(3) An audible warning system that sounds an alarm in the driver's compartment area when the emergency roof hatch is unlatched will be installed as a design feature by the manufacturer.

(4) When more than one ventilation/emergency roof hatch is necessary, one will be installed forward of the intersection of the horizontal and longitudinal midpoints of the bus in a low-pressure area of the roof. The second unit will be installed on the roof in a location behind the rear axle. When only one ventilation/emergency roof hatch is necessary, it will be installed in a low-pressure area of the roof at or near the longitudinal midpoint of the bus.

(5) Ventilation/emergency escape hatches may include static-type nonclosable ventilation.

c. Auxiliary fans will be installed and meet the following provisions:

(1) Two adjustable fans will be installed on Type B, C and D buses. Fans for left and right sides will be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.

(2) Fans will be a nominal 6-inch diameter except where noted below.

(3) Fan blades are to be covered with a protective cage. Each fan will be controlled by a separate switch capable of two-speed operation.

(4) Type A buses will have at least one fan that has a nominal diameter of at least 4 inches and meets the above requirements.

44.3(74) Wheel housings.

a. The wheelhousing will be attached to the floor sheets in such a manner as to prevent any dust, water or fumes from entering the bus body. Wheel housings will be constructed of at least 16-gauge steel or other material capable of withstanding passenger or other expected loads applied internally or externally without deformation.

b. The inside height of the wheelhousing above the floor line will not exceed 12 inches.

c. The wheelhousing will provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.

44.3(75) Windshield and windows.

a. All glass in windshield, windows, and doors will be of approved safety glass consistent with American National Standard, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, ANSI/SAE Z-26.1-1990, mounted so the permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction.

b. Glass in windshields may be heat-absorbing and may contain a shaded band across the top. Location of "fade out" will be above the upper limit for maximum visibility.

c. Each full side window, other than emergency exits designated to comply with FMVSS No. 217, will be split-sash type and provide an unobstructed emergency opening of at least 9 inches high, but not more than 13 inches high, and 22 inches wide, obtained by lowering the window. When the driver's window consists of two sections, both sections will be capable of being moved or opened.

d. The school bus body manufacturer may design and install a protective device over the inside, lower window glass of a rear emergency door to protect it from being damaged or broken during normal operation. The protective device will be securely mounted by the manufacturer, be free of projections that might harm passengers, and permit visibility through the device to the area outside and to the rear of the bus.

e. Tinted glazing capable of reducing the amount of light passing through a window may be installed consistent with rules established by the department of public safety relating to automotive window transparency standards, except that the following windows shall be of AS-II clear glass rating:

(1) All glass to the immediate left of the driver.

(2) All glass forward of the driver and service door.

(3) All glass in the service entrance door.

44.3(76) Windshield washer system.

a. All buses will be equipped with electric wet-arm windshield washers that conform to the body manufacturer's recommendation as to type and size for the bus on which they are to be used. The windshield washer system on Type A and A-2 vehicles may be of the manufacturer's standard design.

b. The washer control(s) will be located within easy reach of the driver.

44.3(77) Windshield wiper system.

a. For Type A vehicles, windshield wipers will be supplied by the chassis manufacturer and be of the manufacturer's standard design.

b. Type B, C and D buses will be equipped with two positive-action, two-speed or variable-speed electric windshield wipers. Windshield wipers will have an intermittent wiping feature and be operated by a single switch.

c. The wipers will be operated by one or more electric motors of sufficient power to operate wipers. If one motor is used, the wipers will work in tandem to give a full sweep of the windshield.

d. Wiper control(s) will be located within easy reach of the driver and designed to move the blades from the driver's view when the wiper control is in the "off" position.

e. Windshield wipers will meet the requirements of FMVSS No. 104.
[ARC 7794C, IAB 4/17/24, effective 5/22/24]

281—44.4(285) Construction of vehicles for children with mobility disabilities. The following apply to vehicles constructed for the transportation of children with mobility disabilities of such severity that the children are unable to use the regular service door entrance. Vehicles constructed for transporting these children will meet all FMVSS relating to school bus construction and Iowa school bus construction requirements as described in rules 281—44.1(285) and 281—44.3(285). The following standards also apply:

44.4(1) General provisions.

a. Certification of these vehicles as multipurpose passenger vehicles due to capacity rating do not relieve the manufacturer of the responsibility to provide a completed vehicle meeting all FMVSS for school buses as well as rules 281—44.1(285) through 281—44.3(285) relating to the construction of a school bus.

b. Alteration of the interior of the vehicle is permissible if all seats and barriers, component parts, anchorages, wheelchair securement devices, and placement of seats and barriers and wheelchair securement devices comply with federal provisions as of date of manufacture. All equipment will be supplied by the original manufacturer and installed per the original manufacturer's specification. Alteration that would return the vehicle to conventional passenger seating will include removal of all wheelchair securement devices, removal of the power lift, and rendering the special service door inoperable.

c. Any school bus that is used for the transportation of children who use a wheelchair or other restraining devices that prevent use of the regular service entrance will be equipped with a power lift located on the right side of the bus body located either forward of or behind the rear wheels on a Type A, B, C, or D bus.

d. The actual rated seating capacity following modification of a vehicle will be placed at locations indicated in paragraph 44.3(34) "e."

44.4(2) Specific provisions.

a. Aisle. Aisles leading from the wheelchair placements to the special service door and either the service door or one 30-inch wide emergency door will be a minimum of 30 inches in width.

(1) Aisles leading from wheelchair placements to all other doors will be at least 20 inches in width.

(2) A wheelchair securement position will not be located directly in front of a power lift door.

b. Barriers.

(1) Barriers will comply with and be installed as required by federal standards as of date of manufacture.

(2) A heavy-duty padded barrier or stanchion will be provided immediately to the rear of the step well opening extending from the side wall of the bus to approximately the aisle to prevent a person from accidentally falling into the step well opening from floor level. A barrier or stanchion as mentioned above will also be placed directly behind the driver.

(3) The power lift mechanism will be padded and protected to prevent a child from accidentally getting any part of the child's body caught in the power lift mechanism or special service door at any time.

(4) All crash/restraining barriers will be the same height as the passenger seating height in the bus.

c. Glazing. Tinted glazing may be installed in all doors, windows, and windshield.

d. Heaters. An additional heater(s) may be installed in the rear portion of the bus on or behind wheel wells.

e. Identification. Buses with wheelchair lifts used for transporting children with physical disabilities will display the International Symbol of Accessibility located on the front and rear of the vehicle below the window line. Emblems will be white on blue, shall not exceed 12 × 12 inches in size, and may be reflectorized.

f. Power lift.

- (1) The power lift will meet all FMVSS and ADA requirements at the time of manufacture.
- (2) The power lift may be located either forward of or behind the rear wheels of the vehicle on the right side of Type A, B, C and D buses.
- (3) All lift controls will be portable and conveniently located on the inside of the bus near the special service door opening. Controls will be easily operable from inside or outside the bus. A master cut-off switch controlling on/off power to the lift will be located in the driver's compartment. There will be a means of preventing the lift platform from falling while in operation due to a power failure.
- (4) Power lifts will be equipped so they may be manually raised or lowered in the event of power failure of the power lift mechanism.
- (5) All edges of the platform will be designed to restrain a wheelchair and to prevent the operator's feet from being entangled during the raising and lowering process.
- (6) A circuit breaker, fuse, or other electrical protection device will be installed between the power source and the lift motor if electrical power is used.
- (7) When hydraulic pressure is used in the lifting process, the system will be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full "up" position or full "down" position.
- (8) All exposed parts of the power lift that are in direct line with the forward or rearward travel of a wheelchair student or attendant will be padded with energy-absorbing material.
- (9) Power lifts are not allowed on vehicles with single rear wheels.

g. Ramps. Ramps are not permitted on Type A, B, C, and D buses.

h. Regular service entrance.

- (1) An additional fold-out or slide-out step may be provided that will provide for the step level to be no more than 6 inches from the ground level to assist persons with disabilities that prohibit the use of the standard entrance step. This step, when stored and not in use, will not impede or in any way block the normal use of the entrance.
- (2) On power lift-equipped vehicles, service entrance steps will be the full width of the step well, excluding the thickness of the doors in the open position.
- (3) In addition to the standard handrail required in all buses, an additional handrail may be provided on all specially equipped school buses. If so equipped, this rail will be located on the opposite side of the entrance door from the required rail and will meet the same provisions for handrails.

i. Seating and seating arrangements.

- (1) All seat spacing, seats, and related components will comply with applicable federal standards as of date of manufacture.
- (2) All seats are to be forward facing. Side-facing seats are prohibited.
- (3) Seat frames may be equipped by the school bus body manufacturer with rings or other devices to which passenger restraint systems may be attached.

j. Special light. Light(s) will be placed inside the bus to sufficiently illuminate the lift area and activated from the door area.

k. Special service opening.

- (1) There will be an enclosed service opening located on the right side (curb side) of the body to accommodate a wheelchair lift on Type A, B, C and D buses.
- (2) The opening will be at least 52 inches high and 40 inches wide and with doors open will be of sufficient width to allow for the installation of various power lifts and related accessories as well as a lifting platform at least 32 inches wide.
- (3) The opening will be positioned far enough to the rear of the regular service door opening to prevent interference of the special service door(s) opening with the regular service doors.
- (4) A drip molding will be installed above the opening to effectively divert water from the entrance.
- (5) Doorposts, headers, and all floor sections around this special opening will be reinforced to provide strength and support equivalent to adjacent side wall and floor construction of an unaltered model.

(6) A header pad at least 3 inches wide, extending the width of special service door, will be placed above the opening on the inside of the bus.

l. Special service door(s).

- (1) All doors will open outwardly.
- (2) All doors will have positive fastening devices to hold doors in the open position.
- (3) All doors will be equipped with heavy-duty hinges and will be hinged to the side of the bus.
- (4) All doors will be weather sealed; and on buses with double doors, each door will be of the same size and constructed so a flange on the forward door overlaps the edge of the rear door when closed.

(5) If optional power doors are installed, the design will permit release of the doors for opening and closing by the attendant from the platform inside the bus.

(6) When manually operated dual doors are provided, the rear door will have at least a one-point fastening device to the header. The forward-mounted door will have at least three-point fastening devices: One will be to the header, one will be to the floor line of the body, and the other will be into the rear door. These locking devices will afford maximum safety when the doors are in the closed position. The door and hinge mechanism is to be of a strength that will provide the same type of use as that of a standard entrance door.

(7) If the door is made of one-piece construction, the door will be equipped with a slidebar, cam-operated locking device.

(8) Each door will have installed a safety glass window, set in a waterproof manner, and aligned with the lower line of adjacent sash and as nearly as practical to the same size as other bus windows.

(9) Door materials, panels, and structural strength will be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering, and other exterior features will match adjacent sections of the body.

(10) The door(s) will be equipped with a device(s) that will actuate a flashing visible signal located in the driver's compartment when the door(s) is not securely closed. (An audible signal is not permitted.)

m. Special student restraining devices.

(1) Each wheelchair station will be equipped with a lap and torso restraint system that meets applicable FMVSS.

(2) Special restraining devices such as shoulder harnesses, lap belts, and chest restraint systems may be installed to the seats providing that the devices do not require the alteration in any form of the school bus seat, seat cushion, framework, or related seat components. These restraints are for the sole purpose of restraining passengers.

(3) All child safety restraint systems will comply with the requirements of FMVSS No. 213, Child Restraint Systems.

n. Wheelchair securement systems.

(1) Securement systems for wheelchairs will meet or exceed applicable FMVSS.

(2) All wheelchair securement systems or devices will be placed in the vehicle so that, when secured, both wheelchair and occupant are facing toward the front of the vehicle. Fastening devices resulting in a side-facing wheelchair and occupant are not permissible.

(3) Straps or seat-belt devices running through the wheels of the wheelchair or around the student seated in the wheelchair for the purpose of securing the wheelchair to the floor are not acceptable.

(4) The wheelchair securement system(s) will be located in a school bus so that when a wheelchair is not secured in place the floor attachment system does not extend above the floor level more than ½ inch.

[ARC 7794C, IAB 4/17/24, effective 5/22/24]

281—44.5(285) Type III vehicles.

44.5(1) General information. These vehicles may be used for student transportation in accordance with the following general provisions:

a. The vehicle will be an OEM product and manufactured as a family-type or multipurpose passenger vehicle (MPV).

Vehicles used exclusively for driver's education are exempt from these provisions.

b. The manufacturer's rated capacity of this vehicle, which is determined only by the OEM on the date of manufacture, will not exceed 12 persons including the driver. The capacity rating may not be changed or modified except by the OEM, dealer, or remanufacturer. Secondary stage or vehicle conversion manufacturers will not establish vehicle capacity. Seating capacities that vary from the OEM are required by NHTSA to be identified by an alterer's certification and information label that shall be affixed to the frame of the driver's door.

(1) Vehicles with a capacity of ten or fewer passengers including the driver may be acquired new or used.

(2) Vehicles with a capacity of 11 or 12 passengers, including the driver, may only be acquired used. For purposes of this subrule, "used" means a vehicle that has had a title transfer from a dealer to one or more previous retail owners.

c. Alteration of a vehicle, following manufacture by the OEM, is prohibited. This includes the addition or removal of seats, wheelchair securement devices, and power lifts. Ramps are allowed on the passenger side of the vehicle only and will comply with all applicable FMVSS and ADA requirements. The following exceptions apply:

(1) OEM options or other manufacturer's accessories not in violation of these standards may be installed.

(2) Seats may be added or removed as long as the seating capacity does not exceed the capacity as certified by the OEM or on the label installed according to paragraph 44.5(1) "b."

d. The vehicle will not carry more passengers than there are seat belts as installed by the manufacturer.

e. The vehicle will not be painted the color known as National School Bus Glossy Yellow.

f. The vehicle will not be equipped with a stop arm or flashing warning signal lamps.

g. This vehicle will load and unload students off the traveled portion of the roadway.

44.5(2) *Special equipment.*

a. Interior liner. An interior liner that covers all exposed ceiling girders, sidewall posts, or other structural projections is to be provided and installed by the manufacturer.

b. The vehicle, while transporting students to and from school, will display a sign, visible to the rear, with the words "SCHOOL BUS." The sign will be National School Bus Glossy Yellow with black letters 6 inches high. The sign will be a type that can be removed, dismantled, or covered when the vehicle is not transporting pupils to and from school.

c. A sign with the words "THIS VEHICLE STOPS AT ALL RAILROAD CROSSINGS," visible to the rear, may be used where appropriate and not in conflict with current statutes. If used, the words will be black letters on a yellow background. The sign will be of a type that can be dismantled, turned down, or covered when the vehicle is not transporting pupils to and from school.

d. Special brake lamps. The vehicle may be equipped with two roof-mounted lights not greater than 4 inches in diameter and positioned horizontally on the roof at least 36 inches apart. The lights will be connected to the brake lamp circuit of the vehicle's electrical system and will operate only when the brakes are applied. When lit, the lamps will be red and visible only to the rear.

e. First aid kit. A first aid kit meeting the national recommendations (most current National School Transportation Specifications and Procedures Manual—first aid kit) is required on all vehicles used for student transportation.

f. Fire extinguisher. The vehicle will carry a dry chemical fire extinguisher of at least 2½-pound capacity with a rating of 2A-10BC. The extinguisher will be equipped with a calibrated or marked gauge. Plastic discharge heads and related parts are not acceptable.

g. Each vehicle will be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device will be mounted in a location accessible to the seated driver in an easily detachable manner.

h. Each vehicle will be equipped with a body fluid cleanup kit.

i. Each vehicle will be equipped with a backup alarm beeper capable of a minimum of 112 db.

NOTE: This is effective for 2007 model year vehicles and newer.

j. Trailer hitches are allowed on Type III vehicles in accordance with the manufacturer's rated towing capacity. Students are not allowed to be transported in the vehicle when the vehicle is being used to tow.

44.5(3) *Applicability of standards.* The above standards apply to all vehicles (except as noted in paragraph 44.5(2) "*i*") of this type and those currently in service used to transport students.
[ARC 7794C, IAB 4/17/24, effective 5/22/24]

281—44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture.

44.6(1) *Body and chassis repair following an accident.*

a. A school bus that has been involved in an accident in which there is damage to the body or chassis components may be repaired to the extent that such repair is possible and that the damaged component can be returned to the OEM's specification and function.

b. The individual or company making the repairs is to certify to the vehicle's owner that all repairs have been made in accordance with the original vehicle or component manufacturer's recommendations using OEM's materials and parts, or their guaranteed equal.

c. Repairs are not to cause the vehicle to no longer comply with any FMVSS in effect and applicable at the time the vehicle or component was manufactured.

44.6(2) *New technology and equipment approval procedure.* It is the intent of these rules to accommodate new technologies and equipment that will better facilitate the transportation of students to and from school and related activities. A new technology, piece of equipment or component that meets the following criteria may be adopted under the following conditions pending formal rule adoption:

a. The technology, equipment or component will not compromise the effectiveness or integrity of any major safety system, unless it completely replaces the system.

b. It will not diminish the safe environment of the interior of the bus.

c. It will not create additional risk to students who are boarding or exiting the bus or are in or near the school bus loading zone.

d. It will not create undue additional activity or responsibility for the driver.

e. It will not generally decrease the safety or efficiency of the bus.

f. It will generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus or generally assist the driver or make the driver's many tasks easier to perform.

g. A pilot test for the purpose of evaluating the performance of the new technology, product or vehicle component may be conducted at the direction of the school transportation consultant with the approval of the director of the department of education. The pilot test will include a minimum of five, but not more than ten, applications of the technology, product or component at locations and over a period of time to be mutually agreed upon by the department and the manufacturer of the product.

h. The cost of the technology, product or vehicle component and its installation is the responsibility of the manufacturer unless other arrangements are made prior to testing or evaluation.

i. An evaluation of the product's performance shall be conducted by department staff, and if the product is determined to meet the criteria listed in paragraphs 44.6(2) "*a*" to "*f*," measures will be taken as soon as practicable to formally approve the product.

j. A technology, product or component not recommended for approval by the department will immediately be removed from vehicles upon which pilot tests were being conducted; and its use will be discontinued by schools or individuals serving as pilot test sites, upon receipt of written notice from the department of education.

[ARC 7794C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 285.8 and 321.373.

[Filed 7/1/52; amended 2/13/68, 6/24/69, 8/17/73, 12/21/73, 6/24/75]

[Filed 2/2/76, Notice 12/29/75—published 2/9/76, effective 3/15/76]

[Filed 5/11/79, Notice 3/21/79—published 5/30/79, effective 7/4/79]

[Filed 7/19/88, Notice 6/1/88—published 8/10/88, effective 9/14/88]

[Filed emergency 1/12/89—published 2/8/89, effective 1/12/89]
[Filed emergency 4/13/89—published 5/3/89, effective 4/14/89]
[Filed 4/13/89, Notice 2/8/89—published 5/3/89, effective 6/7/89]
[Filed emergency 1/17/90—published 2/7/90, effective 1/17/90]
[Filed 4/13/90, Notice 2/7/90—published 5/2/90, effective 6/6/90]
[Filed 9/16/98, Notice 6/17/98—published 10/7/98, effective 11/11/98]
[Filed 9/19/06, Notice 6/7/06—published 10/11/06, effective 11/15/06]
[Filed ARC 9263B (Notice ARC 9145B, IAB 10/6/10), IAB 12/15/10, effective 1/19/11]
[Filed ARC 1489C (Notice ARC 1409C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]
[Filed ARC 4637C (Notice ARC 4479C, IAB 6/5/19), IAB 8/28/19, effective 10/2/19]
[Filed ARC 7794C (Notice ARC 7591C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

TITLE IX
VOCATIONAL EDUCATIONCHAPTER 46
CAREER AND TECHNICAL EDUCATION

281—46.1(256) Federal Act accepted. The provisions of the Act of Congress known as the Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and the benefit of all funds appropriated under said Act and all other Acts pertaining to career and technical education, are accepted. All references to this Act in this chapter are to the Act as amended through February 7, 2024.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.2(256) Definitions. As used in this chapter, the definitions in Iowa Code section 256.125 apply. Additionally, “shared program” means a program or portion of a program offered through an agreement pursuant to Iowa Code section 256.13.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.3(256) State board for career and technical education. The state board of education constitutes the board for career and technical education. In that capacity, the board will approve the multiyear state plan developed by the director in accordance with applicable federal laws and regulations governing career and technical education.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.4(256) Career and technical education service areas. Districts shall comply with rule 281—46.5(256) in offering programming pursuant to this rule. Instructors teaching courses pursuant to this rule are to hold and maintain appropriate licensure pursuant to Iowa Code chapter 256, subchapter VII, part 3.

46.4(1) Grades 7-8. Pursuant to 281—Chapter 12, districts will offer career exploration and development in grades 7 and 8. Career exploration and development is designed so that students are appropriately prepared to create an individual career and academic plan pursuant to 281—Chapter 49, incorporate foundational career and technical education concepts aligned with the six career and technical education service areas as defined in subrule 46.4(2), and incorporate relevant twenty-first century skills.

46.4(2) Grades 9-12. Pursuant to 281—Chapter 12, districts will offer career and technical education programming in the following service areas:

a. Agriculture, food, and natural resources, including the career cluster of agriculture, food, and natural resources.

b. Information solutions, including the career clusters of arts, audio and video technology, and communications; and information technology.

c. Applied sciences, technology, engineering, and manufacturing, including the career clusters of architecture and construction; manufacturing; science, technology, engineering, and mathematics; and transportation, distribution, and logistics.

d. Health sciences, including the career cluster of health science.

e. Human services, including the career clusters of education and training; human services; hospitality and tourism; government and public administration; and law, public safety, corrections, and security.

f. Business, finance, marketing, and management, including the career clusters of business, management, and administration; finance; and marketing.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.5(256) Standards for career and technical education. The board will adopt content standards for the career and technical education service areas. Districts will include, at a minimum, the content

standards for career and technical education service areas adopted pursuant to this rule in career and technical education programs as the standards are adopted by the board.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.6(256) Career and technical education program approval and review.

46.6(1) Secondary program approval. All career and technical education programs offered by a district are to be approved by the department. As a condition for approval, a district will comply with the following paragraphs:

a. Data collection and analysis. A district, for each program, will conduct an analysis of appropriate data and information related to the program and occupational fields applicable to the program. For purposes of this subrule, data includes, at a minimum, program enrollment numbers and trends by high school, course completion rates and trends, data needed under federal statutes governing career and technical education, and labor market information and socioeconomic and demographic data elements as provided by the partnership.

b. Program report and self-study. A district will create a program report and self-study for each offered program. The program report and self-study includes the following minimum criteria:

(1) Program overview. This section includes an overview of the program's purpose, a summary of data and information as described under paragraph 46.6(1) "a" and any conclusions drawn from this data and information, and an analysis of future trends in occupations associated with the program.

(2) Statement of program goals, objectives, and outcomes. This section includes clear statements of the program's goals, objectives, and outcomes, including a justification of the program's goal(s), objective(s), and outcome(s) based on the review conducted under subparagraph 46.6(1) "b"(1), and describes methods that will be used to measure the program's stated outcomes.

(3) Competencies. This section describes the established program competencies aligned with state standards pursuant to rule 281—46.5(256) and the program's goals, objectives, and outcomes; includes evidence of advisory committee approval of competencies, technical skill assessment tool(s), and proficiency benchmarks; includes evidence of postsecondary approval of competencies and technical skill assessment tool(s); outlines and describe the coherent sequence of coursework that constitutes the program, including any related foundational and concurrent enrollment coursework, depicted in a plan of study template; describes processes utilized to employ contextualized and effective work-based, project-based, and problem-based learning approaches; describes efforts to integrate career and technical education student organization(s) into the program, if applicable; and describes processes utilized to review and update the curriculum, ensuring continued relevancy to the occupational field.

(4) Student assessment. This section describes how the program will assess student outcomes established under subparagraph 46.6(1) "b"(2) and program competencies established under subparagraph 46.6(1) "b"(3) and the established technical skill assessment tool(s) to measure competencies, utilizing industry-approved technical skill assessments, where available and appropriate.

(5) Educational resources. This section describes key equipment and materials currently used in instruction; processes to determine whether the equipment is relevant and up to date; processes to maintain the equipment; and new equipment needs, with a description of how the proposed new equipment would improve the program.

(6) Advisory council. This section describes how the program engages with the business community to recruit members for the advisory council pursuant to rule 281—46.8(258) and includes a current member list with titles and company; describes advisory committee meeting logistics including, but not limited to, meeting frequency, agendas, and minutes; details and describes the advice the advisory council has suggested for the program and any actions or results taken by the program that stem from this advice as well as any advice not acted upon by the program; and includes, as an appendix to the narrative, advisory council minutes from the prior year.

(7) Partnerships. This section describes how the program's curriculum is integrated with other curricular offerings required of all students; describes the articulation, contractual agreements for shared courses with community colleges, and other agreements with community colleges and other

postsecondary institutions; and describes how the program partners with counselors at various levels to assist all students and stakeholders in the exploration of pathway opportunities within the service area.

(8) Removing barriers. This section describes how the program removes barriers for all students to access education opportunities both while in and beyond high school.

c. Feedback. The district will submit the program report and self-study completed under paragraph 46.6(1)“b” to the partnership for peer review and feedback. The partnership is to complete a review of the program report and self-study and provide the district with recommendations and feedback based on that review. The partnership’s recommendations will be documented and submitted to the department and the district. The partnership will include in the recommendations a determination of whether the program should or should not receive department approval. A program must be recommended for approval by the partnership for the program to receive approval by the department. The district will modify the program report and self-study based on the partnership’s recommendations. The partnership’s recommendations will be included as an appendix to the program report and self-study submitted to the department. The final program report and self-study will be submitted by the district to the department.

d. Department approval. Final approval of programs is reserved to the department. Approval will be awarded to a program if clear evidence of compliance with the criteria established in this rule is provided in the program report and self-study under paragraph 46.6(1)“b.” A program that fails to be approved by the department will have one year to address identified deficiencies and resubmit for approval of the program. The department will provide a summary of the deficiencies in need of addressing.

46.6(2) Postsecondary program approval. All community college career and technical education programs will be approved through the process established in 281—Chapter 21.

46.6(3) Secondary program review. The program review process will ensure that 20 percent of secondary career and technical education programs are reviewed on an annual basis and that career and technical education programs meet standards adopted by the board. The review will include an assessment of the extent to which the competencies in the program are being mastered by the students enrolled, the costs are proportionate to educational benefits received, the career and technical education curriculum is articulated and integrated with other curricular offerings required of all students, the programs would permit students with career and technical education backgrounds to pursue other educational interests in a postsecondary institutional setting, and the programs remove barriers for all students to access educational and employment opportunities.

a. Secondary program review. As a condition of continuing approval, districts will comply with the following provisions for career and technical education program review. Units of instruction necessary under rule 281—46.4(258) are to have students from each participating high school enrolled. Each district that sends students to a shared program with another district that is used by the sending district to fulfill rule 281—46.4(258) is to have students from the sending district enrolled in the shared program.

(1) Conclusions drawn from annual program measurement. A district will, for each program, annually review and evaluate program outcomes and student assessment data. The district will document any conclusions drawn from the review and evaluation of program outcomes and student assessment data, and how those conclusions impact the future direction of the program. In addition to and as a result of this review, the district will identify program strengths, in order of importance, and describe how these strengths will be maintained; perceived barriers to accomplishing the program’s goal(s) and objective(s); and primary opportunities for improvement, in order of importance, and how these opportunities for improvement will be addressed. The district will also review program enrollment and participation data by high school to determine if students from each participating high school have access to the program. The district will describe how the district is ensuring access to the program for all students from each participating high school.

(2) Revision of program goals, objectives, and outcomes. The district is to update and make appropriate revisions to the program, including goals, objectives, and outcomes, as outlined in the

program report and self-study based on the results of the activities prescribed under subparagraph 46.6(3)“a”(1).

b. Feedback. The district will submit the program report and self-study completed under subparagraph 46.6(3)“a”(2) to the partnership for peer review and feedback. The partnership will complete a review of the program report and self-study and provide the district with recommendations and feedback based on the review. The partnership’s recommendations are to be documented and submitted to the department and the district. The partnership will include in the recommendations a determination of whether the program should or should not receive department approval. A program is to be recommended for approval by the partnership for the program to receive approval by the department. The district will modify the program report and self-study based on the partnership’s recommendations. The partnership’s recommendations will be included as an appendix to the program report and self-study submitted to the department. The final program report and self-study will be submitted by the district to the department.

c. Department approval. Final approval of programs will be reserved for the department. Approval will be awarded to a program if clear evidence of compliance with the criteria established in this rule is provided in the program report and self-study under this rule. A program that fails to be approved by the department will have one year to address identified deficiencies and resubmit for approval of the program. The department will provide a summary of the deficiencies in need of addressing.

46.6(4) Postsecondary program review. The postsecondary program review process is to ensure career and technical education programs meet standards adopted by the board. The review will include an assessment of the extent to which the competencies in the program are being mastered by the students enrolled, the program costs are proportionate to educational benefits received, the curriculum is articulated and integrated with other curricular offerings required of all students, the program provides opportunities for students to pursue other educational interests in a postsecondary institutional setting, and the program removes barriers for all students to access educational and employment opportunities.

a. Process. Each community college will establish a process that ensures at least 20 percent of career and technical education programs are reviewed on an annual basis. The department will ensure compliance with this paragraph through the community college accreditation process established in 281—Chapter 21.

b. Components. The following minimum components will be addressed through the process outlined in paragraph 46.6(4)“a.”

(1) Industry or professional standards. Community colleges will utilize standards established and recognized by industry or professional organizations when available and appropriate. In lieu of these standards, community colleges will develop program standards through a structured group interview process, which involves committees of incumbent workers within an occupational cluster analyzing standards that include new and emerging technologies, job seeking, leadership, entrepreneurial, and occupational competencies. This analysis includes identifying standards that ensure program participants have access to instruction that leads to employment and further training. All standards will be analyzed for the reinforcement of academic skills.

(2) Program standards. Additional standards to be addressed during the program review include currency of curriculum; faculty qualifications; professional development; adequacy of equipment and facilities; student outcomes, in terms of student demographics to include gender, race and ethnicity, national origin, and disability; enrollment retention, completion, and replacement rates; articulation; and employment rates and wages.

(3) Advisory council. The community college will document how the program engages with the business community to recruit members for the advisory council under rule 281—46.8(258). Program review documentation will include a current member list with titles and employer; advisory committee meeting logistics including, but not limited to, meeting frequency, agendas, and minutes; advice the advisory council has suggested for the program; and any actions or results taken by the program that stem from this advice.

(4) Articulation. Teachers and administrators from both secondary and postsecondary instructional levels (when applicable) meet to identify competencies required at each level and to jointly prepare agreements of articulation between secondary and postsecondary levels for specific occupational areas. Such joint articulation efforts will facilitate the secondary-postsecondary transition and help reduce duplication between the two levels.

46.6(5) Program modification. Any modifications to a program are to be approved by the department. Modification includes a change to the courses in the program, a change to the description of a program, discontinuing a program or option, a change to instructional or occupational classification, or changes in program entrance requirements.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.7(258) Accreditation standards not met.

46.7(1) The following are conditions under which a district has failed to meet accreditation standards:

- a. A district fails to submit a program for approval under rule 281—46.6(256).
- b. A program fails to comply with the corrective action process outlined in paragraph 46.6(1) “d” or 46.6(3) “c.”

46.7(2) Any findings under subrule 46.7(1) will be documented and reviewed as part of the comprehensive desk audit established under Iowa Code section 256.11(10) “a”(1).

a. A program identified under paragraph 46.7(1) “a” will not be used by a district to satisfy the minimum education program for career and technical education specified under 281—paragraph 12.5(5) “i.” Such a program is ineligible to receive funds distributed under rule 281—46.9(258).

b. A program identified under paragraph 46.7(1) “b” will not be used by a district to satisfy the minimum education program for career and technical education specified under 281—paragraph 12.5(5) “i.”

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.8(258) Advisory council.

46.8(1) General. The board of directors of a school district or community college that maintains a career and technical education program receiving federal or state funds under this chapter will appoint an advisory council, which is governed by Iowa Code section 256.132. An advisory council established under this rule is to meet at least twice annually.

46.8(2) Joint advisory council. A school district and a community college that maintain a career and technical education program receiving federal or state funds may create a joint local advisory council that may serve in place of an advisory council under subrule 46.8(1).

46.8(3) Regional advisory council. A regional advisory council established by a regional career and technical education planning partnership approved by the department pursuant to rule 281—46.10(258) may serve in place of an advisory council under subrule 46.8(1).

46.8(4) Membership. The membership of each advisory council established under this rule is to consist of public members from multiple businesses within the occupation or occupational field related to the career and technical education program and of other stakeholders with expertise in the occupation or occupational field related to the career and technical education program. There will be a good-faith effort to include secondary and postsecondary career and technical education teachers from related secondary and postsecondary programs on the advisory council.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.9(258) Distribution of career and technical education funds.

46.9(1) An approved regional career and technical education planning partnership is eligible to receive state funds for school districts and community colleges participating in the regional career and technical education planning partnership for purposes allowed under subrule 46.10(6).

a. At the beginning of a fiscal year, the department will assign to each partnership a portion of the total designated career and technical education funds appropriated to the department. The department will disburse funds to a partnership following approval of the multiyear plan pursuant to subrule 46.10(2).

b. Each partnership will be assigned a portion of the total career and technical education funds based on the following formula:

(1) Half of the total career and technical education funds to be disbursed equally between the approved partnerships.

(2) Half of the total career and technical education funds to be disbursed based on the number of students enrolled in approved career and technical education programs.

46.9(2) All federal funds shall be spent pursuant to the state plan pursuant to the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended.

46.9(3) An approved regional career and technical education planning partnership receiving funds under this rule will comply with financial monitoring processes established by the department.

a. At the end of the state fiscal year, the fiscal agent of an approved regional career and technical education planning partnership will submit to the department financial forms and other evidence documents necessary for the department to complete a comprehensive review of all transactions completed during the previous fiscal year that involve state and federal funds issued to the approved regional career and technical education planning partnership by the department. Documentation will be submitted by the regional career and technical education planning partnership in a manner prescribed by the department.

b. Instances of transactions involving state and federal funds issued to an approved regional career and technical education planning partnership that are found to be noncompliant with state and federal regulations governing the use of such funds, including subrule 46.10(6), will be documented by the department.

(1) The fiscal agent of the approved regional career and technical education planning partnership will be notified of any instances of noncompliance, and prepare, in consultation with the regional career and technical education planning partnership and department, a corrective action plan. The plan will, at a minimum, detail the policies and procedures to be implemented by the fiscal agent to ensure that subsequent transactions involving state and federal funds issued to the regional career and technical education planning partnership are compliant with applicable state and federal regulations.

(2) The corrective action plan is to be approved by the regional career and technical education planning partnership and submitted to the department for approval through the annual approval process established under subrule 46.10(2). The department will review and approve or deny approval of the corrective action plan. A regional career and technical education planning partnership required to create a corrective action plan must secure approval of the corrective action plan to be awarded continuing approval. A regional planning partnership that fails to secure continuing approval is subject to paragraph 46.10(2)“c.”

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.10(258) Regional career and technical education planning partnerships. Regional career and technical education planning partnerships are established to assist school districts in providing an effective, efficient, and economical means of delivering high-quality secondary career and technical education programs.

46.10(1) Establishment. Partnerships will be established to serve all school districts in the state no later than June 30, 2017.

a. There are established in the state no fewer than 12 and no more than 15 regions in which partnerships may operate.

b. A partnership will be considered established if approved pursuant to subrule 46.10(2).

c. Convening the regional career and technical education planning partnership is the joint responsibility of the area education agency and community college located within the region. In convening the partnership, the area education agency and community college will secure the participation of interim members of the partnership. When selecting interim members, the area education agency and community college are to ensure the membership provisions of subrule 46.10(3) are satisfied.

46.10(2) Approval. All partnerships will be approved by the department. As a condition of approval, each partnership will meet the following provisions:

a. Approval. Each partnership adopts bylaws in a manner and format prescribed by the department. The partnership submits to the department the partnership's bylaws, a membership list that clearly denotes the membership under subrule 46.10(3) and the chair, vice-chair, and secretary, the designated fiscal agent for the partnership, minutes from recent meetings, and a schedule of future meetings.

b. Continuing approval. By June 30, 2018, and for each subsequent year, each partnership is to adopt a multiyear plan satisfying subrule 46.10(5). The multiyear plan and documents under paragraph 46.10(2)“a” will be reviewed and, as necessary, revised on an annual basis by the partnership and submitted to the department. To maintain approval, the partnership will maintain evidence that the duties assigned to the partnership under subrule 46.10(4) are performed on a continuing basis. In awarding continuing approval, the department will consider documented findings from the financial monitoring process established under subrule 46.9(3).

c. Failure to maintain approval. If the department denies or grants conditional approval of a partnership, the director, in consultation with the partnership, will establish a plan detailing all areas of deficiency and prescribing the procedures that must be taken to achieve approval and a timeline for completion of the prescribed procedures. A final plan will be submitted to the director within 45 days following notice of the department denying or granting conditional approval of a partnership. The partnership will continue to perform the duties assigned to the partnership under subrule 46.10(4) for the duration of the timeline established in the plan. If at the end of the timeline established in the plan the noted deficiencies have not been adequately addressed, the partnership will be denied approval. Within one year of the action to deny approval of the partnership, the director will establish a plan that details how the partnership will be merged or restructured.

d. Resolution of disputes. In the event of a dispute regarding the assignment of a district to a partnership under this rule, the director will first attempt to mediate the dispute. If mediation is unsuccessful, the director will schedule a hearing to obtain testimony. At the sole discretion of the director, the hearing may be held electronically or in person. The director will issue within ten days after the hearing a written decision that is a final administrative decision.

46.10(3) Membership. The membership of each partnership will consist of stakeholders in a position to contribute to the development and successful implementation of high-quality career and technical education programs. Each district that falls within the boundaries of the partnership will be represented on the partnership. Once established pursuant to subrule 46.10(1), the partnership is responsible for identifying and maintaining appropriate membership. Membership of the partnership will include the following:

a. The superintendent of a school district within the regional planning partnership, or the superintendent's designee.

b. The president of a community college within the regional planning partnership, or the president's designee.

c. The chief administrator of an area education agency within the regional planning partnership, or the chief administrator's designee.

d. Representatives of a regional work-based learning intermediary network.

e. Representatives of regional economic and workforce entities including regional advisory boards established under Iowa Code section 84A.4.

f. Representatives of business and industry, including representatives of regional industry sector partnerships.

g. Career and technical education teachers and faculty.

46.10(4) Duties. The partnership will perform the following duties on a continuing basis:

a. Develop a multiyear plan pursuant to subrule 46.10(5), which is to be updated annually.

b. Collect and review all relevant plans pursuant to the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended; career and academic plans under 281—Chapter 49; and regional labor market, socioeconomic,

and demographic information for purposes of facilitating the program review process specified under paragraph 46.10(4)“f” and regional activities specified in the state plan developed under the aforementioned federal Act.

c. Ensure compliance with standards adopted by the board for regional career and technical education planning partnerships.

d. Appropriately expend career and technical education funds in accordance with subrule 46.10(6) assigned to the partnership pursuant to rule 281—46.9(258).

e. Collect, review, and make available to districts appropriate labor market, socioeconomic, and other state, regional, or national information necessary for completing the program approval and review process pursuant to rule 281—46.6(256).

f. Review career and technical education programs of school districts within the region and recommend to the department career and technical education programs for approval in accordance with subrules 46.6(1) and 46.6(3).

g. Coordinate and facilitate advisory councils for career and technical education programs and, as necessary, establish regional advisory councils to serve in the same capacity as local advisory councils.

h. Plan for regional centers with the purpose of achieving equitable access to high-quality career and technical education programming and concurrent enrollment opportunities for all students.

46.10(5) *Multiyear plan.* The multiyear plan developed by the partnership will outline the partnership’s goals, objectives, and outcomes; how the partnership will execute the authority and duties assigned to the partnership; how the partnership will secure collaboration with secondary schools, postsecondary educational institutions, and employers to ensure students have access to high-quality career and technical education programming, including career academies, that aligns career guidance, twenty-first century career and technical education and academic curricula, and work-based learning opportunities that empower students to be successful learners and practitioners; and how the partnership will ensure compliance with standards established under this rule. In addition, the multiyear state plan will include the following components:

a. *Goals, objectives, and outcomes.* The plan will detail the partnership’s goals, objectives, and outcomes, which will include the following goals:

(1) Promote career and college readiness through thoughtful career guidance and purposeful academic and technical planning practices.

(2) Promote high-quality, integrated career and technical education programming, including career academies and the delivery of quality career and technical education programs by school districts in fulfillment of rule 281—46.4(256) comprised of secondary exploratory and transitory coursework to prepare students for higher-level, specialized academic and technical training aligned with labor market needs.

(3) Afford students the opportunity to access a spectrum of high-quality work-based learning experiences through collaboration with a work-based learning intermediary network.

(4) Afford all students equitable access to programs and encourage the participation of underrepresented student populations in career and technical education programming.

b. *Process to measure goals, objectives, and outcomes.* The plan will outline the processes to be used by the partnership to measure all goals, objectives, and outcomes established pursuant to paragraph 46.10(5)“a.”

c. *Program approval and review process.* The plan will outline the process the partnership will utilize in reviewing career and technical education programs of school districts within the region based on standards established in rule 281—46.6(256). The process will detail how 20 percent of programs will be reviewed on an annual basis. The partnership will provide a written five-year program review schedule that clearly indicates the specific year in which a program is to be reviewed within the five-year cycle.

d. *Advisory councils.* The plan will outline the process that the partnership will utilize in coordinating and facilitating local advisory councils for career and technical education programs under rule 281—46.8(258) and establishing regional advisory councils to serve in the same capacity as local advisory councils, as necessary.

e. Use of funds. The plan will detail the partnership's budget including intended use of funds designated to the partnership pursuant to rule 281—46.9(258). The intended use of funds will comply with subrule 46.10(6) and be clearly connected to the goals, objectives, and outcomes of the partnership established under paragraph 46.10(5)“a” and the needs of career and technical education programs and teachers as identified through the program approval and review process under rule 281—46.6(256).

f. Planning for regional centers. The plan will outline the process that the partnership will utilize in planning for regional centers, consistent with rule 281—46.12(258), with the purpose of achieving equitable access to high-quality career and technical education programming and concurrent enrollment opportunities for all students.

g. Meeting regularly. The plan will outline the intended schedule of partnership meetings for a five-year period. The partnership will meet at least twice per academic year.

h. Annual review of multiyear plan. The plan will outline the process to be utilized by the partnership to annually review and, as necessary, revise the plan. This process is to ensure that all members and stakeholders are included in the review and revision of the plan. The partnership will maintain a written record of all reviews of and revisions to the plan.

i. Assurance statement. The plan shall include, in a format prescribed by the department, an assurance that in all operations of and matters related to the partnership, the partnership does not discriminate against individuals protected under federal and state civil rights statutes.

46.10(6) Secondary career and technical education funds. An approved regional career and technical education partnership may use funds received from state and federal sources on behalf of school districts and community colleges participating in the regional career and technical education planning partnership for the following:

a. Staffing and resources to ensure the minimum duties and responsibilities assigned to the regional planning partnership under subrules 46.10(4) and 46.10(5) are satisfactorily executed. The partnership will ensure adequate staffing and resources are committed to these purposes prior to allocating funds for any use authorized under paragraph 46.10(6)“b.”

b. To offer regional career and technical education professional development opportunities; coordinate, maintain, and support a career guidance system pursuant to 281—Chapter 49 and related work-based learning opportunities for students; and purchase career and technical education equipment and curricular resources to include standard classroom consumable supplies directly related to and necessary for the course curriculum, other than basic consumable supplies that will be made into products to be sold or used personally by students, teachers, and other persons.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.11(258) Career academies.

46.11(1) Establishment and responsibilities. A career academy may be established under an agreement between a single school district and a community college, or by multiple school districts and a community college organized into a regional career and technical education planning partnership pursuant to rule 281—46.10(258). A career academy established under this rule will be a career-oriented or occupation-oriented program of study that includes a minimum of two years of secondary education, which may fulfill the sequential unit requirement in one of the four service areas pursuant to 281—subrule 12.5(5), includes concurrent enrollment programming aligned with a postsecondary education program that meets the requirements of 281—Chapter 22, and is approved by the director. A career academy will do all of the following:

a. Utilize regional career and technical education planning partnerships outlined in rule 281—46.10(258) in an advisory capacity to inform the selection and design of the career academy and establishment of industry standards.

b. Establish a program of study that meets all of the following criteria:

(1) Is designed to meet industry standards and prepare students for success in postsecondary education and the workforce.

(2) Integrates academic coursework; includes foundational and transitory career and technical education coursework; includes work-based learning; and utilizes the individual career and academic planning process established under 281—Chapter 49.

(3) Integrates as a portion of the career academy a hands-on, contextualized learning component.

(4) Allows students enrolled in the academy an opportunity to continue on to an associate degree and, if applicable, a postsecondary baccalaureate degree program.

46.11(2) *Contract or agreement.* A career academy must receive approval from district and community college boards participating in the career academy. A contract or 28E agreement is to set forth the purposes, powers, rights, objectives, and responsibilities of the contracting parties and be signed by all participating parties and be in effect prior to initiation of a career academy. An assurance form, as defined by the department, which specifies that the career academy includes all the components under this rule will be sent to the director.

46.11(3) *Faculty.* Faculty providing college credit instruction in a career academy program of study will meet community college faculty minimum standards as specified in 281—subrule 24.5(1) and the quality faculty plan as approved by the community college board pursuant to 281—subrule 24.5(7). Instructors teaching courses that provide only secondary level credit are to have appropriate secondary licensure pursuant to Iowa Code chapter 256, subchapter VII, part 3.

46.11(4) *Compliance.* Districts and community colleges will maintain compliance with the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., as amended, in implementing career academies.

46.11(5) *Data collection.* Data collection and enrollment reporting is to contain such items as determined by the department.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.12(258) Regional centers. The state board will adopt standards pertaining to regional centers. The standards include those which provide for increased and equitable access to high-quality career and technical education programs and require that regional centers incorporate appropriate educational programs, meet appropriate state and federal regulations for safety and access, maintain adequate participation, and are located within an appropriate distance of participating high schools, and that transportation is provided to all students.

46.12(1) *Minimum requirements.* As a condition for approval, a regional center will comply with standards adopted by the board and consist of a minimum of four career academies on site. A regional center will be compatible with the development of a statewide system of regional centers serving all students. A regional center will serve either of the following:

- a. A combined minimum of 120 students from no fewer than two school districts.
- b. A minimum of four school districts.

46.12(2) *Approval.* The director will approve all facilities meeting the standards for regional centers under this rule.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

281—46.13(423F) Career academy incentive fund. A career academy incentive fund is a competitive grant program established by the department to expand opportunities for students to access high-quality career and technical education programming through innovative partnerships between school districts and community colleges.

46.13(1) *Allowable expenses.* Funding issued under this rule will be used by the recipient for purposes outlined in the proposal approved by the department to support the development of career academy infrastructure, including regional centers as defined under rule 281—46.12(258). For purposes of this rule, allowable expenses include the following:

- a. Purchase and improvement of grounds, including the legal costs relating to the property acquisition and surveys of the property.
- b. Construction of buildings and roads to buildings.
- c. Purchase or lease-purchase option agreements for buildings.
- d. Rental of facilities under Iowa Code chapter 28E.

e. Purchase, lease, or lease-purchase of equipment or technology exceeding \$500 in value per purchase or lease-purchase transaction. “Equipment” means both equipment and furnishings.

f. Repair, remodel, reconstruction, improvement, or expansion of buildings and the additions to existing buildings.

46.13(2) Applicants. Institutions eligible to apply for funds include a school district as defined under rule 281—12.2(256) or community college as defined under Iowa Code chapter 260C.

46.13(3) Application proposals. Institutions seeking funds under this rule shall submit an application proposal to the department in a format prescribed by the department. An application for funding that includes more than one institution will designate a single institution to receive funds on behalf of all participating institutions. At a minimum, all applications will include one school district and one community college, though applications consisting of multiple school districts and a community college are encouraged.

a. Service area and aligned occupation. Program information will be collected to identify the aligned service area and in-demand occupation as identified by the state workforce development board pursuant to Iowa Code section 84A.1B(14).

b. Offerings and enrollments. Information will be provided on all career academy offerings made available by the participating institutions. All school districts will provide actual or estimated enrollment by high school in each of the offered career academies over the proceeding five-year period.

c. Program structure. Each proposal will include a response to the following components:

(1) A sequence of coursework, inclusive of all aligned middle school, high school, and postsecondary offerings that constitute the career academy. The sequence of coursework is developed collaboratively between the school district or school districts and community college, and is to be depicted in a template provided by the department.

(2) A description and evidence of integrated project-, problem-, and work-based learning experiences.

(3) Identification of the third-party industry certifications either made available to the student through the program or which the program prepares the student to complete.

d. Partnerships. If applicable, the applicant will provide information on all partnering institutions, and the extent to which each partnering institution is contributing resources to the initiative, including funds, staff, equipment, or other related resources.

e. Business and industry involvement. If applicable, the applicant will provide information on business and industry involvement, including input solicited on offerings, donation of equipment, and contribution of funds.

f. Approved contracts. Each district participating in the career academy will submit as evidence the contract approved by the district’s board established pursuant to subrule 46.11(2).

46.13(4) Criteria for evaluating proposals.

a. Priority. Application proposals will be ranked and sorted according to the following priorities:

(1) First priority. Proposals for a minimum of four new career academies delivered collaboratively between multiple school districts and a community college through a regional center as defined under rule 281—46.12(258) will receive priority consideration.

(2) Second priority. Proposals for existing career academies or establishing a new career academy delivered collaboratively between multiple school districts and a community college through an existing regional center as defined under rule 281—46.12(258) will receive second-priority consideration.

(3) Third priority. Proposals for new or existing career academies delivered through partnership arrangements other than a regional center, including but not limited to individual career academy offerings delivered by one school district, will receive third-priority consideration.

b. Occupational alignment. Proposals for career academies aligned with high-demand occupations as identified by the state workforce development board pursuant to Iowa Code section 84A.1B(14) will be given preferential consideration.

c. Improving access. Proposals for career academies that demonstrate that the grant funds will result in improved access to career and technical education programs for all students enrolled

in participating school districts, including underrepresented and nontraditional students, as well as underserved geographical areas, will be given preferential consideration.

d. Program structure. The proposals will be evaluated to determine the extent to which the components of paragraph 46.13(3)“c” are evident in the career academy program.

e. Additional criteria. Subject to paragraphs 46.13(4)“a” and “b,” proposals will be evaluated against additional criteria including the following:

(1) Actual or projected enrollment for each participating high school over a five-year period is of sufficient size to support robust and sustainable offerings and justify the request for funding.

(2) Cumulative offerings provide students with access to a diverse array of coursework in multiple career and technical education service areas.

(3) If programming is delivered at an off-site location, the sending school district provides transportation to participating students.

f. Budget. Institutions will submit a complete budget for the proposal, including a comprehensive summary of costs and a complete list of funding sources to be put toward implementing and sustaining the initiative.

g. Regional center plan. Evidence will be provided to the department that the regional planning partnership established under this chapter and in which the applicants are participating members has developed a plan for regional centers under paragraph 46.10(4)“h.” The plan will identify any underserved areas of the region, including areas of low career and technical education enrollment and program offerings.

46.13(5) Awarding grants. The department may fully or partially award funds for proposals submitted pursuant to subrule 46.13(3).

a. The department will award funds for first-priority proposals that meet the criteria established in rank order. The department may award funds for second- and third-priority proposals based on availability of funds.

b. A grant award issued under this rule is subject to the limits in Iowa Code section 257.51(3).

46.13(6) Distribution of awarded grants. The department will award funds to the designated fiscal agent for approved proposals according to a payment schedule set by the department in consultation with the applicant. Initiatives approved for funding under this rule are to be completed within the agreed-upon time frame established in the payment schedule, with final payment awarded upon receipt of evidence that the initiative was completed as specified in the approved proposal, unless a waiver issued at the discretion of the director grants the recipient additional time to complete the approved proposal. Any unclaimed award balance will be used by the department to fund future initiatives under this rule.

[ARC 7795C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 258.

[Filed 10/18/69]

[Filed 6/19/81, Notice 3/18/81—published 7/8/81, effective 8/13/81]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed 9/13/91, Notice 2/6/91—published 10/2/91, effective 11/6/91]

[Filed 4/15/94, Notice 3/2/94—published 5/11/94, effective 6/15/94]

[Filed ARC 2947C (Notice ARC 2855C, IAB 12/7/16), IAB 2/15/17, effective 3/22/17]¹

[Filed ARC 4163C (Notice ARC 4048C, IAB 10/10/18), IAB 12/5/18, effective 1/9/19]

[Filed ARC 4810C (Notice ARC 4684C, IAB 10/9/19), IAB 12/18/19, effective 1/22/20]

[Filed ARC 5872C (Notice ARC 5662C, IAB 6/2/21), IAB 8/25/21, effective 9/29/21]

[Filed ARC 7795C (Notice ARC 7592C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

¹ March 22, 2017, effective date of ARC 2947C [the rescission of Chapters 46 and 47 and the adoption of new Chapter 46] delayed until the adjournment of the 2018 General Assembly by the Administrative Rules Review Committee at its meeting held March 10, 2017.

CHAPTER 62
STATE STANDARDS FOR PROGRESSION IN READING

281—62.1(256,279) Assessment of reading proficiency. All school districts shall assess reading proficiency of all students pursuant to this rule.

62.1(1) *Assessment at beginning of school year.* A school district will assess all students enrolled in kindergarten through grade three at the beginning of each school year for the students' level of reading or reading readiness.

62.1(2) *Subsequent assessments throughout school year.* A school district will provide to all students additional, brief assessments of reading achievement in a manner specified by the department, using assessments that meet the standards described in subrule 62.1(5).

62.1(3) *Progress-monitoring instruments.* For students identified as being persistently at risk in reading, as well as students who are becoming persistently at risk in reading, a school district will monitor the students' progress in reading with instruments that meet the standards in subrule 62.1(5), in at least a frequency specified by the department.

62.1(4) *Statewide or locally determined assessments.* Assessments may be locally determined or statewide, including an annual standard-based assessment, provided that all assessments for purposes of implementing this chapter meet the standards described in subrule 62.1(5).

62.1(5) *Standards for approval for assessments.* Any assessment of reading or reading readiness under this rule and used to implement this chapter is to meet the following minimum standards before use by a school district:

a. Standards for all assessments. Any assessment used under this chapter, including instruments described in paragraphs 62.1(5)“b” and “c,” is to meet department-adopted minimum standards for reliability and validity, at the appropriate grade level and for the skills assessed. In addition, all assessments are to have information available concerning administration time per student, access to student data after completion, and amount of teacher training required.

b. Standards for universal-screening instruments. Any assessment used for universal-screening purposes under this chapter is to meet department-adopted minimum standards for the following statistical measures: area under the curve and specificity/sensitivity.

c. Standards for progress-monitoring instruments. Any assessment used for progress-monitoring purposes under this chapter is to meet department-adopted standards for number of forms of demonstrated equivalence and for reliability of slope.

d. Department publication of approved assessments. The department will annually publish or update a list of assessments approved pursuant to this subrule. Approved assessments will have a demonstrated ability to predict future reading performance.

62.1(6) *Basic levels of reading proficiency on approved assessments.* The department will determine benchmarks for basic levels of reading proficiency to be used with approved assessments based on the ability to predict meaningful future outcomes of a student's reading performance that is sufficient to master appropriate grade four reading skills prior to the student's promotion to grade four.

62.1(7) *Assessment measures.* Assessments administered to implement this chapter, when taken as a whole, are to measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

62.1(8) *Noncompliant assessments.* Assessments that do not meet the provisions of this rule may not be used by any school district to implement this chapter.

[ARC 7796C, IAB 4/17/24, effective 5/22/24]

281—62.2(256,279) Tools for evaluating and reevaluating reading proficiency. The department identifies the following attributes of tools that may be used in evaluating and reevaluating reading proficiency:

62.2(1) *Locally determined or statewide assessments.* In evaluating and reevaluating students who are or may be at risk or persistently at risk in reading, school districts are to use assessments that meet the standards referenced in subrule 62.1(5).

62.2(2) *Alternative assessments.* If a school district determines, based on the clear and unique facts of a particular student's case, that a particular student needs an alternative assessment to determine proficiency in reading, in addition to the assessments referred to in rule 281—62.1(256,279) and subrule 62.2(1), the alternative assessment is to be founded on scientifically based research and reasonably calculated to provide equivalent information about the student's reading, in addition to information provided by the assessments referred to in rule 281—62.1(256,279) and subrule 62.3(1).

62.2(3) *Portfolio reviews.* School districts may review a portfolio of a student's work to determine reading proficiency. Portfolio reviews are to be conducted using standard review criteria that are founded on scientifically based research. A portfolio review may be used along with assessments in rule 281—62.1(256,279) and subrule 62.2(1), but is not to be used in lieu of such assessments. The department is to maintain a list of portfolio review criteria that are adequate under this subrule.

62.2(4) *Teacher observation.* A student may initially be identified as being persistently at risk in reading proficiency based on teacher observation. A teacher observation under this subrule is to be based on department-approved observation criteria. Teacher observation shall not be used to determine that a student continues to be persistently at risk in reading.

62.2(5) *Other tools.* The department may identify additional tools for use in evaluating and reevaluating reading proficiency, so long as those tools are founded on scientifically based research.

62.2(6) *Alternate assessment.* If an individual with a disability has been determined to need an alternate assessment aligned to alternate academic achievement standards in reading, pursuant to rule 281—41.320(256B,34CFR300), that individual is to receive such alternate assessment, as well as alternate universal screening and progress monitoring pursuant to this chapter on instruments approved by the department.

62.2(7) *Noncompliant tools.* Tools that do not meet the provisions of this rule shall not be used by any school district to implement this chapter.

[ARC 7796C, IAB 4/17/24, effective 5/22/24]

281—62.3(256,279) Identification of a student as being persistently at risk in reading.

62.3(1) *Definition of "persistently at risk in reading."* A student is determined "persistently at risk" under the standard in Iowa Code section 279.68(1) "a." A student is "at risk in reading" if the student did not meet the grade-level benchmark for one of the two most recent screening assessments administered pursuant to this chapter.

62.3(2) *Determination of a persistent risk in reading.*

a. In initially determining whether a student is persistently at risk in reading as defined in subrule 62.3(1), the school district will consider assessments referred to in rule 281—62.1(256,279) and subrule 62.2(1) or teacher observations that meet the criteria referenced in subrule 62.2(4).

b. In determining whether a student continues to be persistently at risk in reading, a school district will consider assessments referred to in rule 281—62.1(256,279) and subrule 62.2(1), with specific attention given to progress-monitoring results under subrule 62.2(3).

62.3(3) *Services offered to all students who are persistently at risk in reading.* A school district will provide intensive reading instruction to any student who is persistently at risk in reading. A school district will continue to provide the student with intensive reading instruction until the student is reading at grade level, at grade levels beyond grade three if necessary, as determined by the student's consistently proficient performance on valid and reliable measures of reading ability that meet the provisions of rule 281—62.1(256,279). All services provided under this subrule will comply with rule 281—62.4(256,279).

62.3(4) *Notice to parents.* The district will comply with Iowa Code section 279.68(2) "b" and "c."
[ARC 7796C, IAB 4/17/24, effective 5/22/24]

281—62.4(256,279) Successful progression for early readers. Each school district shall provide the following:

62.4(1) *Intensive instructional services.* A school district will provide students who are persistently at risk in reading with the services specified in Iowa Code section 279.68(2) "a."

62.4(2) *Reading enhancement and acceleration development initiative.* The intensive instructional services described in subrule 62.4(1) will be provided to all students in kindergarten through grade three who are identified as being persistently at risk in reading. The services will meet the specifications in the following paragraphs:

a. A school district will provide intensive instructional services during regular school hours, in addition to the regular reading instruction.

b. A school district will provide a reading curriculum that meets the standards of subrule 62.4(3).

62.4(3) *Reading curriculum for students who are persistently at risk in reading.* A curriculum that does not meet the standards of this subrule shall not be used to implement this chapter. To implement this subrule, a school district will provide a curriculum that meets the following guidelines and specifications:

a. Assists students assessed as persistently at risk in reading to develop the skills to read at grade level. Assistance shall include but not be limited to strategies that formally address dyslexia, when appropriate. For purposes of this paragraph, “dyslexia” means a specific learning disability that is neurobiological in origin, is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, and may include difficulties that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, as well as secondary consequences such as problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

b. Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

c. Is supported by scientifically based research in reading.

d. Is implemented by certified instructional staff with appropriate training and professional development. Such training and professional development will meet the provisions of 281—Chapter 83.

e. Is implemented by certified instructional staff with fidelity, which meets such standards for fidelity of implementation that the department may adopt.

f. Includes a scientifically based and reliable assessment, which meets the provisions of rule 281—62.1(256,279).

g. Provides initial and ongoing analysis of each student’s reading progress, which meets the provisions of rule 281—62.1(256,279), with notice provided to parents pursuant to subrule 62.4(4).

h. Is implemented during regular school hours.

i. Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

62.4(4) *Parent notice, involvement and support.* At a minimum and in addition to other provisions of this chapter, school districts will provide the following to all parents or guardians of students who are persistently at risk in reading:

a. At regular intervals, a school district will apprise the parent or guardian of academic and other progress being made by the student and give the parent or guardian other useful information.

b. In addition to required reading enhancement and acceleration strategies provided to students, a school district will provide parents or guardians of students who are persistently at risk in reading with a plan outlined in a parental contract, including participation in regular parent-guided home reading.

62.4(5) *Report to the department.* Each school district will report to the department the specific intensive reading interventions and supports implemented by the school district pursuant to this chapter. The department will annually prescribe the components of required or requested reports.

62.4(6) *Rule of construction: students who are at risk in reading.* Subject to paragraphs 62.4(6) “*a*” and “*b*,” school districts may voluntarily provide additional services and interventions to students who are “at risk in reading” as defined in subrule 62.3(1).

a. School districts will provide progress monitoring to students who are at risk in reading.

b. If a student who was previously persistently at risk and is currently identified as at risk and falls below the grade-level benchmark on a locally determined number of progress monitoring probes,

the student will be provided services under this rule until the next screening assessment administered pursuant to this chapter.

[ARC 7796C, IAB 4/17/24, effective 5/22/24]

281—62.5(256,279) Ensuring continuous improvement in reading proficiency.

62.5(1) General. To ensure all children are reading proficiently by the end of third grade, each school district will comply with the provisions of Iowa Code section 279.68(3) “a.”

62.5(2) Relationship between this chapter and the department’s general accreditation standards. In addition to subrule 62.5(1), the department will consider compliance with and performance under this chapter in its enforcement of the general accreditation standards and school improvement process described in 281—Chapter 12.

[ARC 7796C, IAB 4/17/24, effective 5/22/24]

281—62.6(256,279) Miscellaneous provisions.

62.6(1) Services beyond third grade. Students who are identified as persistently at risk in reading at the end of third grade remain entitled to intensive reading instruction. Nothing in this chapter prohibits a school district from determining a student above third grade is persistently at risk in reading or from providing services to a student so identified.

62.6(2) Database. In implementing subrule 62.4(5), the department may require school districts to enter assessment and progress monitoring data into a statewide database.

62.6(3) Accredited nonpublic schools. Nothing in this chapter prevents an accredited nonpublic school from voluntarily complying with this chapter. Nothing in this chapter prevents the department from offering universal screening or progress monitoring instruments to accredited nonpublic school students or prevents the department from allowing inclusion of those students’ data in the database described in subrule 62.6(2).

62.6(4) Rule of construction. Nothing in this chapter obligates a school district to select a particular assessment, instrument, tool, curriculum, or program, so long as the assessment, instrument, tool, curriculum, or program used meets the provisions of this chapter.

[ARC 7796C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 279.68.

[Filed ARC 1331C (Notice ARC 1245C, IAB 12/11/13), IAB 2/19/14, effective 3/26/14]

[Filed ARC 2862C (Notice ARC 2762C, IAB 10/12/16), IAB 12/7/16, effective 1/11/17]

[Filed ARC 3291C (Notice ARC 3149C, IAB 7/5/17), IAB 8/30/17, effective 10/4/17]

[Filed ARC 5873C (Notice ARC 5663C, IAB 6/2/21), IAB 8/25/21, effective 9/29/21]

[Filed ARC 7796C (Notice ARC 7593C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 63
EDUCATIONAL PROGRAMS AND SERVICES
FOR PUPILS IN JUVENILE HOMES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 42]

281—63.1(282) Definitions.

63.1(1) Special programs cited in Iowa Code section 282.30 are referred to as juvenile shelter care homes and juvenile detention homes, and are referred to jointly as juvenile homes.

63.1(2) For purposes of this chapter, “school corporation” refers to school districts, state-approved charter schools, area education agencies (AEAs), and community colleges.

63.1(3) For purposes of this chapter, “aides” refers to aides and paraeducators as defined in Iowa Code section 256.157.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.2(282) Forms.

63.2(1) The department of education will provide forms, which may be electronic or web-based, to AEAs for submitting program and budget proposals and for submitting claims, which are due according to Iowa Code section 282.31(1) “a.”

63.2(2) The department of education will also provide forms, which may be electronic or web-based, to AEAs for use by the juvenile homes requesting educational services, which are due according to the timelines in Iowa Code section 282.31 “b”(2). An AEA is to file a budget amendment for a newly established juvenile home requesting educational services 90 days prior to the initial delivery of the educational services.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.3(282) Budget amendments. An AEA is to amend the budget during the fiscal year in which actual classrooms implemented are different than budgeted or there is a significant decrease or increase in the student membership that would change the number of teachers or aides necessary to support the average daily membership. An amendment is also necessary if actual expenditures vary significantly from expenditures that were budgeted. A significant variance in actual expenditures means that the amount of funding that would be reverted to or due from the state equals or exceeds 10 percent of the advance payments in the subsequent year prior to adjustments.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.4(282) Area education agency responsibility. An AEA shall provide or make provision for an appropriate educational program pursuant to Iowa Code section 282.30(1) “a.” The provision of the educational program is to be pursuant to a written agreement that identifies the responsibilities of the AEA, juvenile home, and any other agency with which the AEA contracts to provide the educational program.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.5(282) Educational program.

63.5(1) *Methods of program provision.* The AEA will provide the educational program by a manner specified by Iowa Code section 282.30(1) “b,” by enrolling the child in the educational program provided in the juvenile home, or by another delivery method with the approval of the department of education.

In accordance with Iowa Code section 273.2, an AEA will contract, whenever practicable, with other school corporations for the use of personnel, buildings, facilities, supplies, equipment, programs, and services.

63.5(2) *Final determination.* In the absence of a decision of a court regarding a child’s educational placement, the AEA where the child is living will make the final determination regarding the provision of the appropriate educational program for the child, in consultation with the district of residence of the child and with the juvenile home. In making this determination, consideration will be given to:

a. A preference for continuance of the child’s educational program that was in place prior to the child’s placement in the home. For students in custody of the state’s child welfare agency, school stability

and the student's ability to remain in his or her school of origin will be prioritized to the maximum extent appropriate consistent with the child's best interest.

- b. Placement into the least restrictive environment.
- c. Development of a plan for future educational programming.
- d. The provisions of the court order if the child was placed in the facility by a court.
- e. Factors including, but not limited to, the child's emotional or physical state, the child's safety and the safety of others, the child's identified or assessed academic abilities, and the projected duration of stay in the home.

63.5(3) Cooperation with area education agency. The AEA of the child's district of residence, the school district of residence, the school district in which the home is located, other AEAs, the juvenile home and other appropriate agencies involved with the care or placement of the child will cooperate pursuant to Iowa Code section 282.30(2).

63.5(4) Summer school programs. Summer school programs, as distinguished from extended year programming, may be operated pursuant to Iowa Code section 282.31(5) and are considered as separate programs in each home. The fiscal year for a juvenile home program is from July 1 through June 30. Program and budget proposals submitted to the department of education prior to January 1, pursuant to Iowa Code section 282.31, may include requests for summer school programs, or portions of summer school programs, commencing July 1 of the subsequent fiscal year and summer school programs, or portions of summer school programs, ending June 30 of the subsequent fiscal year.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.6(282) Special education. The AEA will establish policies and procedures for screening and evaluating students living in juvenile homes who may need special education.

63.6(1) Assignment. A diagnostic-educational team will be assigned by the AEA in which each program is located. This diagnostic-educational team includes individuals who are appropriately qualified to conduct special education evaluations and to assist in planning programs for students who are provided a special education program pursuant to an individualized education program (IEP).

63.6(2) Duties. The duties of this diagnostic-educational team include the screening of all students for potential special education needs, identifying children in need of special education, providing needed special education support services and assisting in the implementation of needed special education programs.

63.6(3) Role of director of special education. It is the responsibility of the AEA director of special education to ensure that all procedures related to due process, protection in evaluation, least restrictive environment, development of individual educational programs and other provisions of 281—Chapter 41 are adhered to for students provided a special education program pursuant to an IEP who are served in juvenile homes. In addition, the director is responsible for coordinating the activities of the special education program with other programs and services provided.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.7(282) Other AEA services.

63.7(1) Educational services. Personnel from the educational services division of the local AEA will be made available to each program. Personnel will assist with curriculum development as well as provide all other services that are made available to local education agencies within the particular AEA.

63.7(2) Media services. Personnel from the media services division of the local AEA will be made available to each program. All services that are made available to local education agencies within the particular AEA are to be made available to these programs and students.

63.7(3) Other responsibilities. In addition to the above-mentioned responsibilities, AEA personnel will assist with coordination of program curricula with the curricula of the local district in which the home is located and with the transition of students from these programs to subsequent program placement. This coordination includes the establishment of procedures for ensuring that appropriate credit is available to the students while participating in the program.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.8(282) Curriculum. Each program will use the minimum curriculum requirements for approved or accredited schools as a guide to developing specific content for each student's educational program. The content of each student's program is to be sufficient to enable the student to earn credit while participating in the program.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.9(282) Disaster procedures. Each home will maintain a written plan containing emergency and disaster procedures that are clearly communicated to and periodically reviewed with staff.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.10(282) Maximum class size.

63.10(1) Maximum class size in shelter care homes. The following maximum class size-to-staff ratio will be used in shelter care homes:

<u>Average Daily Membership</u>	<u>Full-Time Teacher</u>	<u>Educational Aide(s)</u>
10 or fewer	1	1 aide
More than 10 through 20	2	1 aide with more than 10 but fewer than 15 students 2 aides with 15 through 20 students
More than 20 through 30	3	2 aides with more than 20 but fewer than 25 students 3 aides with 25 through 30 students

63.10(2) Maximum class size in detention homes. The class size-to-staff ratio used in detention homes will be the same as that defined in subrule 63.10(1) unless the needs of the students in the class require a lesser ratio. If the needs of students in the class require a lesser ratio, it will be no greater than the following class size-to-staff ratio:

<u>Average Daily Membership</u>	<u>Full-Time Teacher</u>	<u>Educational Aide(s)</u>
Fewer than 10	1	1 aide with 5 or fewer students 2 aides with more than 5 students
10 through 20	2	2 aides with fewer than 15 students 3 aides with 15 through 20 students
More than 20 through 30	3	3 aides with fewer than 25 students 4 aides with 25 through 30 students

Support for this staffing ratio is to be provided with the juvenile home budget proposals and with the juvenile home claims.

63.10(3) When a classroom is located in an off-site facility, a full-time educational aide may be assigned for each off-site classroom in addition to the number allowed in subrule 63.10(1) or 63.10(2).

63.10(4) The department of education may waive subrules 63.10(1), 63.10(2), and 63.10(3) if student characteristics such as the age range of students in the home or the percentage of students in the home involved in adult criminal proceedings necessitate a different class size-to-staff ratio. Any variance from the maximum prescribed class size-to-staff ratio must be approved by the department of education on an annual basis. Support for the waiver request is to be provided with the juvenile home budget proposals and with the juvenile home claims.

63.10(5) Average daily membership for determining class size in subrules 63.10(1) to 63.10(4) for the juvenile home budget proposals is based on the actual average daily membership from the year previous to the base year, average daily membership to date in the base year, and factors known at the time of the budget proposals that would impact the average daily membership in the budget year.

63.10(6) If the number of teachers and aides as determined in subrules 63.10(1), 63.10(2), and 63.10(3) was appropriately estimated for the juvenile home budget proposal and was approved by the department of education, and the actual number of teachers or aides is determined to be in excess of maximum class sizes based on the actual average daily membership of students on the juvenile home claims, the department of education may waive subrule 63.10(1), 63.10(2), or 63.10(3).

63.10(7) If the educational program at any one juvenile home is provided in more than one classroom location and using multiple classroom locations results in a different number of teachers and aides than would have been allowed if the students were in one classroom, the department of education may waive subrules 63.10(1) and 63.10(2). Support for the waiver request is to be provided with the juvenile home budget proposals annually.

63.10(8) The AEA will develop policies and procedures to monitor and ensure that the educational program is provided sufficient instructional staff.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.11(282) Teacher certification and preparation.

63.11(1) *Certification.* At least one teacher who is assigned to these programs shall hold Iowa certification for Instructional Strategist I or II, or both, as appropriate to the grade level and needs of the students served.

63.11(2) *In-service.* Each teacher is to be provided appropriate in-service education opportunities annually in areas defined through needs assessments.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.12(282) Aides. Educational aides will be provided preservice and in-service opportunities consistent with duties to be performed and work under the direct supervision of the teacher.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.13(282) Accounting. Revenues, expenditures, and balances of the juvenile home programs will be accounted for in the manner provided in Uniform Financial Accounting for Iowa LEAs and AEAs, in effect on February 7, 2024, except as otherwise noted in these rules.

63.13(1) *Fund.* Juvenile home instructional programs will be accounted for in a special revenue fund. The fund balances are to be maintained in the special revenue fund at year-end, and the continuance or disposition of positive or negative fund balances will be determined by the department of education.

63.13(2) *Tuition.* Tuition paid or received will be calculated as follows:

a. If juvenile home students not requiring special education attend a local school district, other than the district of residence, tuition is to be calculated in the manner prescribed in Iowa Code section 282.24 for determining tuition costs for any nonresident student attending a local school district. In lieu of paying tuition to the local school district for these students, the AEA may request the local school district to account for these students through the foster care facility claim process.

b. Tuition for students provided a special education program pursuant to an IEP will be paid by the district of residence, in accordance with the rules of special education and pursuant to Iowa Code chapter 282, to the district in which the juvenile home is located or to the AEA, whichever is providing the special education. The district in which the juvenile home is located or the AEA, whichever is providing the special education, will notify the district of residence if the child was being served on the third Friday in September by the district in which the home is located or by the AEA. The district in which the juvenile home is located or the AEA, whichever is providing the special education, will also notify the district of residence if the child was being served on December 1 by the district in which the home is located or by the AEA.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.14(282) Revenues. Revenues include:

1. Funding received pursuant to Iowa Code section 282.31,
2. Tuition revenue from the district of residence or agency in another state for educational services provided for out-of-state students,
3. Tuition revenue from the district of residence for educational services for students provided a special education program pursuant to an IEP, and
4. Other miscellaneous funding received or accrued for the purpose of operating the juvenile home instructional programs.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.15(282) Expenditures. Expenditures may include actual instructional expenditures, student support services expenditures, instructional staff support services expenditures, administrative support services, operations and maintenance of plant services, student transportation services, and interfund transfers for indirect costs. Supplies and equipment necessary to provide the educational program will be equivalent to those provided to a comparable number of students by the district in which the juvenile home is located. Classroom space is to be adequate for the number and needs of children in the juvenile home instructional program.

63.15(1) Instructional expenditures. Instructional expenditures include:

- a. Salaries and employee benefits of employees providing instructional services. Included are teachers, substitutes, other instructional personnel, and aides.
- b. Purchased services, supplies, and equipment, which are customarily considered instructional expenditures.
- c. Intrafund transfers.
- d. The department of education will annually determine the maximum amount that may be expended on instructional expenditures. Total expenditures for instructional services for each continuing classroom, other than salary and employee benefits, that are not provided pursuant to an IEP will not exceed 10 percent of the state average expenditure on instructional salaries and employee benefits in the juvenile home program in the year prior to the base year. New classrooms in the first year of operation will not exceed twice the maximum amount calculated.

63.15(2) Student and instructional staff support services and student transportation services expenditures. Among the services included in these categories are guidance services, transportation services, curriculum development, and library and instructional technology. Expenditures may include salaries, employee benefits, purchased services, supplies, equipment, and intrafund transfers.

63.15(3) Administrative support services, operation and maintenance of plant services, and interfund transfers. Administrative support services, operation and maintenance of plant services and interfund transfer expenditures may include:

- a. Intrafund transfers and actual costs of general administration services provided to the juvenile home program. Expenditures for general administrative costs will correspond to the amount of the administrator's time assigned and provided to the juvenile home program.
- b. Intrafund transfers and actual costs of division administrative services provided to the juvenile home program. Expenditures for division administrative costs will correspond to the amount of the administrator's time assigned and provided to the juvenile home program.
- c. Expenditures for the administrative services of administrative staff assigned directly to the juvenile home program.
- d. Expenditures for business administration services provided to the juvenile home program. The juvenile home program may be charged for costs of providing business administration services. If the juvenile home program is charged for providing business administration services, the amount is to be either actual costs or the amount determined by using the restricted indirect cost rate applied to allowable juvenile home program expenditures.
- e. The total of all expenditures for administrative services is to be no greater than the actual cost determined by the AEA's accounting records or 10 percent of the total expenditures in the juvenile home program, whichever is less.

f. Expenditures for operation and maintenance of plant services except as provided in subrule 63.15(4).

g. The total of all expenditures for administrative services and for operation and maintenance of plant services is to be no greater than the actual cost determined by the AEA's cost accounting system or 20 percent of the total expenditures in the juvenile home program, whichever is less.

63.15(4) *Unauthorized expenditures.* Expenditures do not include expenditures for debt services, for facilities acquisition and construction services including remodeling and facility repair, or for rental expenditures for classroom facilities when adequate space is available at the juvenile home or AEA.

63.15(5) *Charges for AEA services.* As provided by rule 281—63.6(282), subrule 63.7(1), or subrule 63.7(2), juvenile home students will have available to them special education support services, educational services, and media services comparable to those services made available to other students in the AEA; however, expenditures for these services are inherent costs to the respective AEA programs and are not to be assessed to the juvenile home educational program.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.16(282) Claims. AEAs will submit program and budget proposals and claims consolidating all juvenile home education programs within each AEA. Certain program information may be required for each separate juvenile home.

63.16(1) The number of classrooms being provided by each AEA is to be reported on the budget proposals and claims. The number is to be expressed in terms of full-time equivalent (FTE) classrooms. One FTE represents a full-time teacher providing a program during the normal school year. One-tenth FTE will be added for each month of summer school taught on a daily full-time basis. A full school year and three months of summer school is calculated as 1.3 FTE.

63.16(2) Each teacher will keep a daily register pursuant to Iowa Code section 294.4.

63.16(3) The average daily membership of students of school age living in juvenile homes who are being provided an educational program will be reported on the budget proposals and claims. "Average daily membership (ADM)" means the average obtained by dividing the total of the aggregate days of attendance plus the aggregate days of absence by the total number of student contact days. Student contact days are the days during which the educational program is provided and students are under the guidance and instruction of the instructional professional staff. "Aggregate days" means the sum of the number of days of attendance and days of absence for all pupils who are enrolled during the school year. A student is considered enrolled after being placed in a juvenile home and taking part in the educational program. A student is considered to be in membership from the date of enrollment until the date of leaving the juvenile home or receiving a high school diploma or its equivalent, whichever occurs first. ADM will be calculated on the regular school year exclusive of summer session. School age is defined pursuant to Iowa Code chapter 282.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.17(282) Audits. AEAs will make the records related to providing educational services for juvenile homes available to independent auditors, state auditors and department of education staff on request.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

281—63.18(282) Waivers. A waiver may be requested by an AEA that presents evidence of a need for a different configuration of expenditures under paragraph 63.15(1) "d," 63.15(3) "a," 63.15(3) "b," 63.15(3) "e," or 63.15(3) "g," or subrule 63.15(4) or 63.15(5). The AEA may annually request the waiver and will include the waiver request and the evidence specified by this rule with the program and budget proposal or budget amendment submitted pursuant to rule 281—63.2(282) or 281—63.3(282). An approved waiver related to rent payment to the juvenile home does not necessitate an annual waiver request except in any year that the rental contract terms change from the rental contract terms in the previous year.

63.18(1) If the department denies a waiver request, the AEA that was denied may request within ten days of notification of the denial that the director of the department of education review the denial of the waiver request.

63.18(2) It is the intent of the department of education to waive provisions of this chapter only when it is determined that they would result in unequal treatment of the AEAs or cause an undue hardship to the requesting AEA and the waiver clearly is in the public interest.

[ARC 7797C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 282.30 and 282.31.

[Filed 2/11/88, Notice 12/2/87—published 3/9/88, effective 4/13/88]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/21/88]

[Filed 1/18/00, Notice 11/17/99—published 2/9/00, effective 3/15/00]

[Filed 8/4/00, Notice 6/28/00—published 8/23/00, effective 9/27/00]

[Filed ARC 7797C (Notice ARC 7594C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

¹ Effective date of 63.18(4) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000; delay lifted by the Committee at its meeting held April 7, 2000, effective April 8, 2000.

CHAPTER 64
CHILD DEVELOPMENT COORDINATING COUNCIL

281—64.1(256A,279) Purpose. These rules structure the child development coordinating council and set forth its operating procedures.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.2(256A,279) Definitions applicable to this chapter.

“*Council*” means the child development coordinating council.

“*Department*” means the department of education.

“*Grantee*” means the applicant designated to a grant under this chapter.

“*Parent*” means biological, adoptive, surrogate, or foster parent, or guardian.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.3(256A,279) Child development coordinating council. The council members are set forth in Iowa Code section 256A.2. The Iowa resident parent will be chosen by the Iowa Head Start Association.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.4(256A,279) Procedures.

64.4(1) A quorum consists of two-thirds of the voting members.

64.4(2) When a quorum is present, a position passes when approved by a majority of voting members.

64.4(3) The council will meet at least four times per year and may meet more often at the call of the chair or a majority of voting members.

64.4(4) The chairperson and vice-chair will be elected by the council for a term of two years. After the initial two-year term as vice-chair, the vice-chair will assume the role of chairperson for a term of two years.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.5(256A,279) Duties. The duties of the council are provided in Iowa Code sections 256A.3 and 279.51.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.6(256A,279) Application process. The council will advise the department to announce through public notice the opening of an application period for both Division I and Division II of this chapter.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.7(256A,279) Request for proposals. Applications for grants under either division of this chapter will be distributed by the department upon request. Proposals not containing the specified information or not received by the specified date will not be considered. All applications are to be submitted in accordance with instructions in the requests for proposals and are to be submitted to the department.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.8(256A,279) Notification of applicants. The council will advise the department to notify applicants of the decision to approve or disapprove the proposal within 45 days of the deadline for applications. Negotiations may be required. Successful applicants will be requested to have an official with vested authority sign a contract with the department.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.9(256A,279) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the council may withdraw the award offer.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.10(256A,279) Evaluation. The grantee will cooperate with the council and provide requested information to determine how well the goals and objectives of the project are being met.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.11(256A,279) Contract revisions and budget reversions. The grantee will immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but will not increase the total amount of the grant. Grant funds unencumbered or unobligated at the conclusion of the program period revert to the department. The program period concludes at the end of the five-year grant cycle, if an annual renewal grant within the five-year grant cycle is not awarded, or at any time the grant is discontinued during the five-year grant cycle.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.12(256A,279) Termination for convenience. 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 will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and cancel as many outstanding obligations as possible.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.13(256A,279) Termination for cause. The contract may be terminated in whole or in part at any time before the date of completion, whenever it is determined by the council that the grantee has failed to comply substantially with the conditions of the contract. The grantee will be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and cancel as many outstanding obligations as possible.

The department will administer the grants under this chapter contingent upon funding availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the child development grants and the public school grants, the contracts will be terminated or renegotiated. The department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.14(256A,279) Responsibility of grantee at termination. Within 45 days of the termination, the grantee will supply the department with a financial statement detailing all costs up to the effective date of the termination. If the grantee expends money for other than specified budget items approved by the council, the grantee will return moneys for unapproved expenditures.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.15(256A,279) Appeal from terminations. Any agency or public school aggrieved by a termination of a contract for cause pursuant to rule 281—64.13(256A,279) may appeal the decision to the director of the department in writing within 30 days of the decision to terminate. The hearing procedures found at 281—Chapter 6 apply to appeals of terminated grantees, except that the rules on consolidation, severance, waiver of proceedings, and manner of hearing do not apply.

In the notice of appeal, the grantee will give a short and plain statement of the reason for the appeal.

The director will issue a decision within a reasonable time, not to exceed 120 days from the date of the hearing.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.16(256A,279) Refusal to issue ruling. The director may refuse to issue a ruling or decision upon an appeal for good cause. Good cause includes the following reasons:

1. The appeal is untimely;
2. The appellant lacks standing to appeal;
3. The appeal is not in the proper form or is based upon frivolous grounds;

4. The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties;

5. The termination of the grant was beyond the control of the department because it was due to lack of funds available for the contract.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.17(256A,279) Request for Reconsideration. An applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within ten days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration is to be based upon one of the following grounds:

1. The decision process was conducted in violation of statute or rule;
2. The decision violates state or federal law, policy, or rule (to be cited in the Request);
3. The decision process involved a conflict of interest.

Within 20 days of filing a Request for Reconsideration, the requester will submit all written documentation, evidence, or argument in support of the request. The director will notify the council of the request and provide the council an opportunity to defend its decision with written documentation, evidence, or argument, which is to be submitted within 20 days of receipt of the request. The council will provide copies of all documents to the requester at the time the items are submitted to the director.

The director will issue a decision granting or denying the Request for Reconsideration within 30 days of the receipt of the evidence, or no later than 60 days from the date of Request for Reconsideration, unless a later date is agreeable to the requester and the council.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.18(256A,279) Refusal to issue decision on request. The director may refuse to issue a decision on a Request for Reconsideration upon good cause. Good cause includes the following reasons:

1. The request was untimely;
2. The requester lacks standing to seek reconsideration;
3. The request is not based on any of the available grounds in rule 281—64.17(256A,279), or is merely frivolous or vexatious;
4. The requester failed to provide documentation, evidence or argument in support of its request;
5. The request is moot due to negotiation and settlement of the issue(s).

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.19(256A,279) Granting a Request for Reconsideration. If the director grants a Request for Reconsideration, the council will consider the grantee's application in accordance with the director's findings and decision.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

DIVISION I

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS OF CHILDREN AGED BIRTH THROUGH FIVE YEARS WHO ARE AT RISK (ALSO KNOWN AS SHARED VISIONS PARENT SUPPORT PROGRAMS)

281—64.20(256A,279) Definitions.

“Applicant” means a public school district, an area education agency or an agency which applies for the funds to provide quality educational support programs to parents of children aged birth through five years who are at risk, with an emphasis on parents of children aged birth through three years.

“Children who are at risk” means children aged birth through five years who are at risk because of physical or environmental influence.

“Educational support services” means individual or group opportunities providing information to parents that focus on parenting skills, child growth and development, building of self-concept, nutrition, positive guidance techniques, family resource management, parent literacy, and how to access the array of supportive services from a network of agencies that are available to families with young children who are at risk.

“*Quality educational support services*” means educational support services that have a qualified or trained staff to provide a program which meets the needs of parents through the use of a validated curriculum or which is based on a model project which has proven successful in another state or location. [ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.21(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council will award grants to applicants for the provision of educational support services to parents of children aged birth through five years who are at risk, with priority to applicants that serve parents of children aged birth through three years who are at risk. Funds will be made available on a competitive basis to schools or nonprofit agencies demonstrating an ability to provide quality educational support services to parents of children aged birth through five years who are at risk. Competitive grants will be awarded with a renewal option for up to five years contingent upon the awardee’s meeting program requirements. If program requirements are not met, the council will advise the department to discontinue grant funding at the start of the following fiscal year. [ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.22(256A,279) Eligibility. The available funds shall be directed to serve parents of children aged birth through five years who are at risk in the primary eligibility category as follows:

Parents having one or more children aged birth through five years who meet the current income eligibility guidelines for free and reduced price meals under the child nutrition program. [ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.23(256A,279) Secondary eligibility. The available funds shall be directed to serve parents of children aged birth through five years who are at risk when children qualify in one or more of the secondary eligibility categories as follows:

1. Children who are abused.
2. Children functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional.
3. Children born with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1,500 grams—approximately three pounds) or with conditions such as spina bifida, Down syndrome, or other genetic disorders.
4. Children born to a parent who was under the age of 18.
5. Children residing in a household where one or more of the parents or guardians:
 - Has not completed high school;
 - Has a substance use disorder;
 - Has a chronic mental illness;
 - Is incarcerated;
 - Has low literacy skills;
 - Has a history of child or spouse abuse; or
 - Is an English learner.
6. Children having other special circumstances, such as foster care or being homeless.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.24(256A,279) Grant awards criteria.

64.24(1) Criteria points. The following information will be provided and points will be awarded to applicants based on the following criteria as stated in the request for proposal:

- a. Identification of parents of children who are at risk.
- b. Positive family focus.
- c. Educational support programs to provide family services.
- d. Community and interagency coordination.
- e. Overall program evaluation.
- f. Letters of community support.
- g. Program budget (administrative costs not to exceed 10 percent of total award).

64.24(2) Additional grant components. The following information will be provided and points will be awarded to applicants based on the following additional components:

- a. Documentation of a need for this project.
- b. Justification of how this project will utilize services from other agencies and how this project will supplement services to the eligible population.
- c. Identification of the curriculum to be used or the model to be replicated.
- d. Demonstration that persons qualified to administer these educational support services to parents will be employed.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.25(256A,279) Award contracts.

64.25(1) Grants for educational support services to parents of children aged birth through five years who are at risk shall not supplant other existing funding sources.

64.25(2) Administrative costs are limited to 10 percent of the total award.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.26(256A,279) Grantee responsibilities. The grantee will maintain records which include:

1. Demographic information on parents and children served.
2. Qualifying criteria for those parents receiving educational support services.
3. Documentation of the number of contact hours in either individual or group sessions with parents.
4. Documentation of the type of educational support services provided to parents.
5. Indication of where the services were provided, i.e., home, school or community facility.
6. Evaluation of how each project goal and objective was met, on what timeline, and with what success rate.
7. Record of expenditures and an annual audit. Grant funding is to support direct services to families and their children to the fullest extent possible.
8. Other information specified by the council necessary to the overall evaluation.

Grantees will complete a year-end report on forms provided by the department documenting the information outlined in this rule.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

DIVISION II

CHILD DEVELOPMENT PROGRAMS (ALSO KNOWN AS SHARED VISIONS PRESCHOOL PROGRAMS)

281—64.27(256A,279) Definitions applicable to this division.

“Applicant” means a public or private nonprofit organization, licensed by the department of health and human services or approved by the department of education, which applies for the state child development funds.

“Child development grants” means the funds awarded by the council to assist child development programs.

“Children who are at risk” means a student who meets one or more of the primary and secondary risk factors stated in rules 281—64.29(256A,279) and 281—64.30(256A,279).

“Low-income family” means a family who meets the financial eligibility criteria for free and reduced price meals offered under the child nutrition program.

“Project” means the child development program for which grant funds are requested.

“Public school applicant” means a public school district approved by the department which applies for the state public school child development funds.

“Public school child development grants” means the funds awarded by the council to assist public school child development programs as established in Iowa Code section 279.51.

“Public school grantee” means the applicant designated to receive public school child development grants.

“*Public school project*” means the public school child development program for which grant funds are requested.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.28(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council will grant awards on a competitive basis to child development programs for three- and four-year-old children who are at risk and public school child development programs for three-, four-, and five-year-old children who are at risk. Competitive grants will be awarded with a renewal option for up to five years when grantees meet program requirements. If program requirements are not met, the council will advise the department to discontinue grant funding at the start of the following fiscal year.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.29(256A,279) Primary eligibility.

64.29(1) *Child development grants.* At least 80 percent of the funded available enrollment slots for three- and four-year-old children who are at risk will be directed to serve children in primary eligibility categories as follows:

- a. Children reaching three or four years of age on or before September 15 of the contract year; and
- b. Members of a low-income family.

64.29(2) *Public school child development grants.* At least 80 percent of the funded available enrollment for three-, four-, and five-year-old children who are at risk in public school child development programs will be directed to serve children in primary eligibility categories as follows:

a. Children reaching three, four, or five years of age on or before September 15 of the contract year; and

- b. Members of a low-income family.

64.29(3) *Enrollment criteria.* Applicants are to document the number of children enrolled under primary eligibility and the criteria used for enrollment.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.30(256A,279) Secondary eligibility.

64.30(1) *Criteria.* Up to 20 percent of the available funded child development enrollment slots for at-risk may be filled by children who are three or four years of age on or before September 15 or public school enrollment slots by children who are three, four, or five years of age on or before September 15; are above the income eligibility guidelines provided that they are served on a sliding fee schedule determined at the local level; and are eligible according to one or more of the following criteria if the child:

a. Is functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional;

b. Was born with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1,500 grams—approximately three pounds) or with conditions such as spina bifida, Down syndrome, or other genetic disorders;

c. Was born to a parent who was under the age of 18;

d. Resides in a household where one or more of the parents or guardians:

- (1) Has not completed high school;
- (2) Has a substance use disorder;
- (3) Has a chronic mental illness;
- (4) Has low literacy skills;
- (5) Is incarcerated; or
- (6) Has a history of child or spousal abuse; or

e. Has other special circumstances, such as foster care or being homeless.

The program may include children without risk factors, provided they are at full pay and meet other age requirements.

64.30(2) Enrollment criteria. Applicants are to document the number of children enrolled under secondary eligibility and the criteria used for enrollment.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.31(256A,279) Grant awards criteria.

64.31(1) Criteria points. The following information shall be provided and points awarded to applicants based on the following criteria as stated in the request for proposal:

- a. Provision of a comprehensive child development program.
- b. Limited class size.
- c. Child-teacher ratios of not less than one staff member per eight children.
- d. Provision of parental involvement.
- e. Demonstration of community support.
- f. Utilization of services provided by other community agencies.
- g. Use of qualified teachers.
- h. Existence of a plan for program evaluation including, but not limited to, measurement of student outcomes.
- i. Developmentally appropriate practices.

64.31(2) Additional grant components. The following information shall be provided and points awarded to applicants based on the following additional components:

- a. Program summary.
- b. Research documentation.
- c. Identification and documentation of local populations who are at risk.
- d. Letters of community support.
- e. Program budget (administrative costs not to exceed 10 percent of total award).

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.32(256A,279) Grant process.

64.32(1) An applicant will make formal response using forms issued and procedures established by the council.

64.32(2) A rating team composed of persons with expertise in child development programs and fiscal management experience will review and rank the proposals.

64.32(3) The council has the final discretion to award funds.

64.32(4) The council will advise the department to notify successful applicants and to provide to each of them a contract for signature.

[ARC 7798C, IAB 4/17/24, effective 5/22/24]

281—64.33(256A,279) Grantee responsibilities.

64.33(1) The grantee will maintain records which include but are not limited to:

- a. Information on children and families served.
- b. Direct services provided to children.
- c. Record of budget, including expenditures. Grant funding is to support direct services to children to the fullest extent possible. Administrative costs under these programs is limited to 10 percent of the total award.
- d. Other appropriate information specified by the council necessary to the overall evaluation.

Monitoring of such records will be conducted through the submission of annual reports by the grantee and may include on-site review as determined necessary by the department.

64.33(2) Programs in year one of award. Each program in year one of a grant shall meet the program standards and accreditation criteria of the National Association for the Education of Young Children, the Iowa quality preschool program standards, or other approved program standards as determined by the department during the program's first year of funding. Programs that do not attain accreditation or that do not receive a waiver will not be funded.

64.33(3) Programs in renewal years.

a. Programs shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children, the Iowa quality preschool program standards and criteria, or other approved program standards as determined by the department. Programs unable to maintain accreditation may apply for a waiver of accreditation within 30 days of the change in accreditation status. Waivers are awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.

b. Continuation of a grantee's participation for a second or subsequent renewal year is subject to the approval of the department based upon the grantee's compliance with program requirements and the department's review of the grantee's implementation of the grant program.

c. Awarded grantees are to maintain the program standards identified in the awarded application throughout the five-year grant cycle, unless unforeseen circumstances occur. Such circumstances will be considered at the discretion of the council.

64.33(4) Grantees will provide annual reports that include information detailing progress toward goals and objectives, expenditures and services provided on forms provided for those reports. Failure to submit reports by the due date will result in suspension of financial payments to the grantee until the time that the report is received. No funds will be made available to programs in renewal years when there are delinquent reports from prior years. No new initial awards will be made to programs when there are delinquent reports from prior grant cycles.

64.33(5) Grantees may use funds in a manner consistent with Iowa Code section 279.51(2) "b."

64.33(6) Any contract under this division may be terminated in whole or in part by June 30 of the current fiscal year in the event that the grantee has not attained accreditation of the program standards identified in the awarded application or has not been awarded a waiver of accreditation by the council.
[ARC 7798C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 256A and section 279.51.

[Filed emergency 9/16/88—published 10/5/88, effective 9/16/88]

[Filed 12/8/88, Notice 10/5/88—published 12/28/88, effective 2/1/89]

[Filed emergency 2/10/89—published 3/8/89, effective 2/10/89]

[Filed emergency 1/5/90, after Notice 11/1/89—published 1/24/90, effective 1/5/90]

[Filed emergency 2/15/91—published 3/6/91, effective 2/15/91]

[Filed 4/12/91, Notice 3/6/91—published 5/1/91, effective 6/5/91]

[Filed 12/19/91, Notice 10/30/91—published 1/8/92, effective 2/12/92]

[Filed 4/15/94, Notice 3/2/94—published 5/11/94, effective 6/15/94]

[Filed 8/10/98, Notice 4/8/98—published 9/9/98, effective 10/14/98]

[Filed ARC 9904B (Notice ARC 9792B, IAB 10/5/11), IAB 12/14/11, effective 1/18/12]

[Filed ARC 1488C (Notice ARC 1394C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

[Filed ARC 3767C (Notice ARC 3612C, IAB 2/14/18), IAB 4/25/18, effective 5/30/18]

[Filed ARC 6980C (Notice ARC 6876C, IAB 2/8/23), IAB 4/19/23, effective 5/24/23]

[Filed ARC 7798C (Notice ARC 7604C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 66
SCHOOL-BASED YOUTH SERVICES PROGRAMS
Rescinded **ARC 6379C**, IAB 6/29/22, effective 8/3/22

CHAPTER 67
EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF CHILDREN AGED BIRTH THROUGH FIVE YEARS WHO ARE AT RISK
Rescinded **ARC 7798C**, IAB 4/17/24, effective 5/22/24

CHAPTER 81
STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

281—81.1(256) Definitions.

“*Area education agency*” or “*AEA*” means a regional service agency that provides school improvement services for students, families, teachers, administrators, and the community.

“*Department*” means the department of education.

“*Director*” means the director of the department of education.

“*Institution*” means a public or private institution of higher education, an AEA, or a professional organization offering a school business official preparation program(s) and renewal credits.

“*Novice*” means an individual in a school business official position who has no previous experience in that position or who is newly authorized by the board of educational examiners.

“*School business official candidates*” means individuals who are enrolled in school business official preparation programs leading to authorization by the board of educational examiners to practice as school business officials.

“*School business official preparation programs*” means the programs of school business official preparation that lead to authorization to practice as a school business official.

“*State board*” means the Iowa state board of education.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.2(256) Institutions eligible to provide a school business official preparation program. Institutions of public and private higher education, AEAs, and professional organizations engaged in the preparation of school business officials shall meet the standards contained in this chapter to obtain and maintain state board approval of their programs. Each institution that seeks state board approval of its programs for school business official preparation will file evidence of the extent to which each program meets the standards contained in this chapter. Such evidence will be demonstrated by means of a written self-evaluation report and an evaluation conducted by the department and prepared using a template developed by the department. Only approved programs may recommend candidates for school business official authorization.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.3(256) Approval of programs. Approval by the state board of an institution’s school business official preparation program will be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

81.3(1) Approval, if granted, is for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

81.3(2) If approval is not granted, the applicant institution will be advised of the areas in which improvement or changes appear to be essential for approval. In this case, the institution will be given the opportunity to present information concerning its programs at a regularly scheduled meeting of the state board, no later than three months following the board’s initial decision.

81.3(3) Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program will receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for authorization.

81.3(4) The standards herein apply regardless of delivery mode of instruction.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.4(256) Governance and resources standard. An institution’s governance structure and resources will adequately support the preparation of school business official candidates to meet professional, state, and institutional standards in accordance with the following provisions:

81.4(1) A clearly understood governance structure provides guidance and support for the school business official preparation program.

81.4(2) Procedures for an appeals process for candidates are clearly communicated and provided to all candidates.

81.4(3) The program administers a comprehensive evaluation system designed to enhance the teaching competence and intellectual vitality of the professional educational institution.

81.4(4) Institutional commitment to the program includes financial resources, facilities, appropriate educational materials, and equipment to ensure the fulfillment of the institution's and program's missions and the delivery of quality programs.

81.4(5) The institution provides sufficient instructors and administrative, clerical, and technical staff to plan and deliver a quality school business official preparation program.

81.4(6) Resources are available to support professional development opportunities for instructors.

81.4(7) Resources are available to support technological and instructional needs to enhance candidate learning.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.5(256) Instructor standard. Instructor qualifications and performance will facilitate the professional development of school business official candidates in accordance with the following provisions:

81.5(1) Instructors are adequately prepared for assigned responsibilities and have had experiences relative to the curricula the instructors are teaching and in situations similar to those for which the school business official candidates are being prepared. Instructors have experience and adequate preparation in effective methods for any mode of program delivery in which the instructors are assigned responsibilities.

81.5(2) Instructors instruct and model best practices in teaching, including the assessment of the instructors' own effectiveness as it relates to candidate performance and engaging in professional development on adult teaching and learning.

81.5(3) Instructors are engaged in professional development that relates to school business official preparation.

81.5(4) Instructors collaborate regularly and in significant ways with colleagues in the institution and other institutions, schools, the department, and professional associations as well as with community representatives.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.6(256) Assessment system and institution evaluation standard. The institution's assessment system will appropriately monitor individual candidate performance and use the performance data in concert with other information to evaluate and improve the institution and its programs.

81.6(1) Program assessment system.

a. The program utilizes a clearly defined management system for the collection, analysis, and use of assessment data.

b. The institution clearly documents candidates' attainment of the program standards.

c. The institution demonstrates the propriety, utility, accuracy and fairness of both the overall assessment system and the instruments used and provides scoring rubrics or other criteria used in evaluation instruments.

d. The institution documents the quality of programs through the collective presentation of assessment data related to performance of school business official candidates. Documentation will include the following:

(1) Data collected throughout the program, including data from all delivery models;

(2) Evidence of evaluative data collected on a biennial basis from school business officials who work with the program's candidates; and

(3) Evidence of evaluative data collected on a biennial basis by the institution through follow-up studies of graduates and their employers.

e. The institution explains the process for reviewing and revising the assessment system.

f. The institution demonstrates how the information gathered by the institution and from the performance assessment system for candidates is shared with instructors and other stakeholders and used for program improvement.

81.6(2) Performance assessment system for candidates.

a. The performance assessment system for candidates is an integral part of the institution's planning and evaluation system.

b. The performance assessment system for candidates includes a coherent, sequential assessment system for individual school business official candidates. The assessment system is shared with instructors to provide guidance for course and program improvement. The assessment system also provides ongoing feedback to school business official candidates about their achievement of program standards and guidance for reflection and improvement. Data are drawn from multiple formative and summative assessments of institutional evaluation of the candidates' content knowledge and professional knowledge and from application of this knowledge to the necessary skills and attributes appropriate for a novice school business official.

c. School business official candidate performance is assessed at the same standard regardless of the place or way the program is delivered.

81.6(3) *Survey of graduates.* The department periodically conducts a survey of schools, agencies, or facilities that employ licensed graduates of approved programs to ensure that the graduates' needs are adequately met by their programs and by the approval process herein.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.7(256) School business official candidate knowledge and skills standards and criteria. School business officials will demonstrate content knowledge, professional knowledge, and skills in accordance with the following standards and supporting criteria. In addition, each school business official candidate shall meet all requirements established by the board of educational examiners for an authorization for which the candidate is recommended. Programs will submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

81.7(1) *Standard 1.* Each school business official demonstrates an understanding of Uniform Financial Accounting, governmental generally accepted accounting principles (GAAP) accounting, and statutory concepts. The school business official:

a. Is responsible for understanding and adhering to the Uniform Financial Accounting Manual as effective on February 7, 2024, and the current, accepted chart of accounts.

(1) Codes all salaries and benefits to the appropriate function, program, and project (if applicable) on a monthly basis;

(2) Ensures revenues, expenditures, and expenses are appropriately coded to the correct account monthly; and

(3) Ensures balance sheet items are properly coded as directed.

b. Understands and ensures implementation of state and federal law related to employment, personnel, and payroll.

c. Understands all projects and grants for which the district receives funding.

d. Understands the certified budgeting process and the content and purpose of each section of the aid and levy worksheet as well as other certified budget forms.

e. Understands the concept of spending authority.

81.7(2) *Standard 2.* Each school business official demonstrates the ability to implement effective internal controls and accounting processes. The school business official:

a. Provides data monthly in sufficient detail as to be informative and useful for decision makers and stakeholders in providing educational and co- and extracurricular programs.

b. Ensures delivery, monthly, of a statement of receipts, disbursements, and amount on hand for every fund.

c. Ensures reconciliation of bank statements monthly.

d. Consistently follows the procedure by which products and services may be purchased (state bidding, purchase orders, and purchasing processes).

e. Ensures that an annual line-item budget that aligns with the district-certified budget revenues and expenditures is completed in a timely manner for each fund.

f. Maintains an itemized statement no more than five years old of the appraised value of all buildings and other capital assets and a list of historical costs.

g. Invests moneys not needed as authorized under the Iowa Code and district policy.
 h. Uses only depositories approved by the local school board.
 i. Makes payments only to the person entitled to the payment and only for verified bills.
 j. Understands and implements the various mechanisms by which to borrow money as well as the appropriate account coding and repayment processes.

k. Is able to produce budget forecasts and analyses of spending.

l. Is capable of preparing employee collective bargaining costing models and estimates.

81.7(3) Standard 3. Each school business official demonstrates an understanding of and compliance with federal, state, and local reporting requirements. The school business official:

a. Produces for the local school board periodic reports reflecting a financial statement in relation to spending authority and published budget control lines.

b. Ensures that an accurate and separate account of each fund is maintained.

c. Ensures the filing of all quarterly and annual payroll taxes and reports in a timely fashion, including but not limited to IRS Forms 941, 1099, W-2, and W-3 and relevant U.S. Office of Management and Budget (OMB) circulars.

d. Files with the department of education, the department of management, and the state auditor all required reports in a timely fashion.

e. Understands the local collective bargaining agreement as well as nonemployee contracts.

81.7(4) Standard 4. Each school business official demonstrates compliance with applicable federal, state, and local laws. The school business official:

a. Understands the district board's policies and procedures and effectively implements applicable policies and procedures.

b. Implements effective records management processes and procedures.

c. Has a working knowledge of laws applicable to school districts and area education agencies.

d. Understands and implements employment laws.

e. Understands and implements bidding and construction laws.

f. Understands and implements pension processes, including but not limited to retirement plans, IPERS, and 403B investments.

g. Ensures that the school board president's and secretary's signatures are on all checks and that the school board president's signature is on all contracts.

h. Ensures that billing for all tuition items is completed on the current prescribed timeline.

i. Manages scheduling and preparation for the local audit, including any request for proposals for audit services as applicable.

81.7(5) Standard 5. Each school business official demonstrates competence in technology appropriate to the school business official position. The school business official:

a. Effectively manages an integrated accounting system for fund accounting by the district and assesses technology needs for fiscal management issues.

b. Maintains all funds in one integrated accounting system.

c. Displays a working knowledge of other software programs, if required to be used by the school business official.

d. Is able to use word processing, database, and spreadsheet documents effectively to meet the needs of the district.

e. Displays competence in using the department's secure website for reporting purposes.

f. Is able to upload the chart of accounts and understands the relationship of the chart of accounts to the other reports, including but not limited to the special education supplement, the annual report on use of sales tax revenue, and the annual transportation report. This duty includes testing the functionality of accounts used for accuracy. The testing is carried out in a manner that allows for identification of issues prior to the actual submission deadline.

81.7(6) Standard 6. Each school business official demonstrates appropriate personal skills. The school business official:

a. Is an effective communicator with all stakeholders, including but not limited to colleagues, policy makers, community members, and parents.

- b. Works effectively with employees and stakeholders.
- c. Ensures the timely flow of information.
- d. Maintains confidentiality with personal, restricted and embargoed information.
- e. Is able to analyze, evaluate, and solve problems.
- f. Timely and accurately performs the duties of a school business official.
- g. Maintains an environment of mutual respect, rapport, and fairness.
- h. Participates in and contributes to a school culture that focuses on improved student learning.

81.7(7) Standard 7. Each school business official engages in professional growth. The school business official:

- a. Stays current with accounting technologies and the department's financial reporting system.
- b. Demonstrates habits and skills of continuous inquiry and learning.
- c. Works collaboratively to improve professional practice.
- d. Applies research, knowledge, and skills acquired from professional development opportunities to improve practice.
- e. Engages with administration on an annual review of the effectiveness of district accounting and reporting processes and on an individual performance evaluation consistent with district policy.
- f. If the school business official has not earned full authorization as a school business official, participates in the school business official mentoring program to the extent necessary.

81.7(8) Standard 8. Each school business official fulfills professional responsibilities established by the school district. The school business official:

- a. Adheres to school board policies, district procedures, and contractual obligations and ensures that applicable district policies are not in conflict with state law.
- b. Demonstrates professional and ethical conduct as defined by state law and district policy.
- c. Contributes to efforts to achieve district goals.
- d. Is able to contribute to cost/benefit analyses.
- e. Participates in the board of educational examiners ethics program.
- f. Follows the code of professional conduct and ethics and the rights and responsibilities described in 282—Chapters 25 and 26.

81.7(9) Standard 9. If a school business official is also employed as the secretary or treasurer of the school board, the school business official:

- a. Takes the oath of office within ten days following appointment.
- b. Files a bond and ensures the level of coverage is adequate.
- c. Holds office until a successor has been appointed and qualified.
- d. Publishes minutes, bills, and salaries on a timely basis.
- e. Ensures that the department, the county auditor, and the treasurer are informed in a timely manner of the names and addresses for board officers as well as any changes therein.
- f. Files and preserves copies of all required reports and all papers transmitted pertaining to the business of the school corporation, including all certificates, reports, and proofs related to compulsory education.
- g. Maintains separate books for minutes and elections and ensures that the records are complete.
- h. Delivers all claims to the board for audit and allowance.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.8(256) School business official mentoring program. The one-year mentoring program and its partners will assist candidates in becoming successful school business officials in accordance with the following provisions. The candidate is to be employed as a school business official to be eligible to participate in the mentoring program.

81.8(1) Candidates admitted to a school business official preparation program will participate in the mentoring program. All hours spent in the mentoring program are outside of the nine semester hours required in the program.

81.8(2) Each school business official preparation program will inform all candidates of the following minimum expectations of the candidates as mentees:

- a. Participation in weekly conversations with the mentee's mentor, including a review of work assignments.
- b. Maintenance of a record of contacts with the mentor and submission of the record to the program. A template will be provided by the program.
- c. Completion of surveys to assist with program evaluation.
- d. Communication with the program if the relationship with the mentee's mentor is not meeting the needs or expectations of the mentee.
- e. Full participation in the mentoring program throughout the one-year period.

81.8(3) Each school business official preparation program will inform all program candidate mentors of the following minimum expectations:

- a. Contacting the mentee on a weekly basis.
- b. Completing surveys to assist with program evaluation.
- c. Informing the program if the relationship with the mentee is not meeting expectations.
- d. Maintaining confidentiality of the interactions between mentor and mentee.
- e. Supporting the mentee throughout the one-year period.

81.8(4) The institution will offer one or more workshops annually for all cooperating mentors to define the objectives of the mentoring program, review the responsibilities of the cooperating mentors, and provide the cooperating mentors other information and assistance the institution deems necessary. The workshops will utilize delivery strategies identified as appropriate for staff development and reflect information gathered through feedback from workshop participants.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

281—81.9(256) Monitoring.

81.9(1) *Reports to the department.* Upon request by the department, programs will make periodic reports that include basic information necessary to maintain up-to-date records of each school business official preparation program and to carry out research studies relating to school business official preparation.

81.9(2) *Reevaluation of school business official preparation programs.* Every seven years or at any time deemed necessary by the director, an institution will file a written self-evaluation of its school business official preparation program. Any action for continued approval or rescission of approval is to be approved by the state board.

81.9(3) *Approval of program changes.* Upon application by an institution, the director is authorized to approve minor additions to or changes within the curriculum of an institution's approved school business official preparation program. When an institution proposes a revision that exceeds the primary scope of its programs, the revision shall become operative only after approval by the state board.

[ARC 7799C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 256.7.

[Filed ARC 9474B (Notice ARC 9379B, IAB 2/23/11), IAB 4/20/11, effective 5/25/11]

[Filed ARC 0479C (Notice ARC 0112C, IAB 5/2/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 7799C (Notice ARC 7595C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

TITLE XVI
SCHOOL FACILITIES
CHAPTER 96
STATEWIDE SALES AND
SERVICES TAX FOR SCHOOL INFRASTRUCTURE

281—96.1(423E,423F) Definitions.

“*Actual enrollment*” means the number of students each school district certifies to the department by October 15 of each year in accordance with Iowa Code section 257.6(1).

“*Base year*” means the school year ending during the calendar year in which the budget is certified.

“*Certificate of need*” means the written department of education approval a school district must obtain if the district has a certified enrollment of fewer than 250 students or a certified enrollment of fewer than 100 students in grades 9 through 12.

“*Combined actual enrollment*” means the sum of the students in each school district located in whole or in part in a county who are residents of that county as determined by rule 281—96.2(423E,423F).

“*Department*” means the state department of education.

“*Guaranteed school infrastructure amount*” means for a school district the statewide tax revenues per student, multiplied by the quotient of the tax rate percent imposed in the county, divided by 1 percent and multiplied by the quotient of the number of quarters the tax is imposed during the fiscal year divided by four quarters.

“*New construction*” means any erection of a facility or any modification or addition to a facility except for repairing existing schoolhouses or school buildings or for construction necessary for compliance with the federal Americans with Disabilities Act, 42 U.S.C. Sections 12101 to 12117, effective February 7, 2024.

“*Nonresident student*” means a student enrolled in a school district who does not meet the definition of a resident in Iowa Code section 282.1.

“*Reconstruction*” means rebuilding or restoring as an entity a thing that was lost or destroyed.

“*Repair*” means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance.

“*Resident student*” means a student enrolled in a school district who meets the definition of a resident in Iowa Code section 282.1.

“*Revenue purpose statement*” means a document prepared by the school district indicating the specific purpose or purposes for which the funding, pursuant to Iowa Code chapters 423E and 423F, will be expended.

“*Sales tax*” means the statewide sales and services tax for school infrastructure imposed in accordance with Iowa Code chapter 423F.

“*School budget review committee*” or “*SBRC*” means a committee that is established under Iowa Code section 257.30.

“*School district*” means a public school district in Iowa accredited by the state department of education.

“*School infrastructure*” means the same as defined in Iowa Code section 423F.3(6).

“*Site improvement*” means grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks that are not parts of building service systems; demolition work; and special assessments against the school district for public improvements defined in Iowa Code section 384.37.

“*Statewide tax revenues per student*” means the amount per student established by Iowa Code section 423E.4(2) “b”(3).

[ARC 7800C, IAB 4/17/24, effective 5/22/24]

281—96.2(423E,423F) Reports to the department. Each school district shall, by October 15, annually report the school district's actual enrollment on October 1 by the student's county of residency according to the following:

96.2(1) *County of residency.* The county of residency for each of the students is the county in which the student lives in accordance with Iowa Code section 282.1.

96.2(2) *Emancipated minor.* The county of residency for an emancipated minor attending the school district is the county in which the emancipated minor is living.

96.2(3) *County of residency unknown.* If a school district cannot determine an enrolled student's county of residency or if the county of residency is not a county in which the school district is located, the county of residency is the county in which the school district certifies its budget.

[ARC 7800C, IAB 4/17/24, effective 5/22/24]

281—96.3(423E,423F) Combined actual enrollment. By March 1, annually, the department will forward to the department of management the actual enrollment and the actual enrollment by the student's county of residency for each school district located in whole or in part in a county where a sales tax has been imposed and the combined actual enrollment for that county.

[ARC 7800C, IAB 4/17/24, effective 5/22/24]

281—96.4(423E,423F) Application and certificate of need process.

96.4(1) *When application is needed; application period.* A school district that does not exceed enrollment thresholds defined in Iowa Code section 423F.3(5) shall not expend the amount of statewide sales and services tax received for new construction without prior application to the department and receipt of a certificate of need. A certificate of need is not necessary for repair of school facilities; for purchase of equipment, technology, or transportation equipment for transporting students as provided in Iowa Code section 298.3; school safety and security infrastructure as provided in Iowa Code section 423F.3(6) other than new construction; or for construction necessary to comply with the federal Americans With Disabilities Act, 42 U.S.C. Sections 12101 to 12117, effective February 7, 2024. Applications are due no later than eight weeks prior to a regularly scheduled meeting of the SBRC. The SBRC holds regularly scheduled meetings as stipulated in rule 289—1.4(257).

96.4(2) *Application form.* Each applicant school district is to use the form prepared by the department for this purpose and in the manner prescribed by the department. The application form includes at least the following information:

a. The total capital investment of the project. If the project is in collaboration with other public or private entities, a school district is to include the following information:

- (1) Identification of the collaborating public or private entities;
- (2) Total cost of the collaborative project; and
- (3) Total cost of the school district's portion of the project.

b. The infrastructure needs of a school district specific to the application, especially the fire and health safety needs, including the extent to which the project would allow the school district to meet its infrastructure needs on a long-term basis. If a school district's needs include fire and health safety needs, the school district is to attach to its application form a copy of the citation from the fire marshal for the safety deficiency or evidence of consultation with the fire marshal or other qualified inspector related to the health safety deficiency. A school district is to include evidence of public involvement in assessing the need for this project.

c. The description of need including a cost-benefit analysis of remodeling, reconstructing, or repairing the existing structure rather than implementing this project and a description of any alternatives considered and the reasons for rejection.

d. Enrollment trends by grade in a school district showing a five-year history and five years of projected enrollment by grade. The school district is to identify the grades that will be served at the new construction site. If a school district uses enrollment projections other than those prepared by the department, the school district is to submit a description of the basis for those projections. The school district is to demonstrate that there is sufficient economic activity and stability to support and sustain enrollment projections of the affected attendance center.

e. If a school district's enrollment in the current year or any of the five years of projected enrollments is fewer than 250 students, the school district is to attach a copy of a feasibility study pursuant to Iowa Code section 256.9(30) or similar study conducted within the past three years with an explanation of how the study supports the project that is the subject of the application.

f. A description of the benefits and effects of the project and its relationship to improving student learning including alignment with school district student achievement goals and including the school district's ability to meet or exceed the educational standards. A school district is to provide:

(1) A list of waivers applied for and granted to the school district or any deficiencies from educational standards if no waiver was granted.

(2) A list of courses offered by major curricular area in grades 9 through 12, including five years of history and three years of projected curricula if the proposed new construction will house any of the grades 9 through 12.

(3) A list of current and projected staffing patterns including assignments and licensure.

g. Description of transportation barriers, if any, to the current site and to the proposed site and the distance in miles and in travel time from the nearest and furthest boundaries of the school district to the current site and the proposed site.

h. Evidence of a healthy financial condition and long-term financial stability. The school district is to provide:

(1) Calculation of unspent balance on the generally accepted accounting principles (GAAP) basis, including five years of history and three years of projected balances. The calculation of budget authority is to show and project the effect of the budget adjustment under Iowa Code section 257.14. Projected allowable growth is that which is known or generally anticipated at the time of the application. If the percent of allowable growth is not known or anticipated, a district may use an annual projected allowable growth of up to 2 percent.

(2) If the unspent balance is negative in any current or projected year on the GAAP basis, the school district shall include a copy of the corrective action plan, if any, submitted to the SBRC.

(3) Calculation of fund balance on the GAAP basis by fund. The calculation shall include five years of history and three years of projected balances.

i. If a school district currently has bonded indebtedness, the voter-approved physical plant and equipment levy, or categorical funding for school infrastructure, the school district is to include a statement identifying the implementation date, final year of the bonded indebtedness or the final year of the levy or categorical funding, and the levy rate. The school district is to list any obligations against those current balances and future revenues or against the statewide sales and services tax for school infrastructure amounts. The school district is to attach a copy of the school district's revenue purpose statement, if any.

j. A comprehensive, districtwide infrastructure plan. The school district is to include the date that the plan was adopted by the board, an executive summary of the plan, and a description of how the project fits within the infrastructure plan.

k. A five-year history of significant infrastructure maintenance and repair.

l. A statement certifying the accuracy of the information contained in the application.

96.4(3) Board minutes. A school district that is applying for a certificate of need is to submit with its application a copy of the published minutes of the board of director's meeting showing that the board has authorized the application and the project and that the public has been informed, with the section of the board minutes containing this information marked in such a way as to make it easily identifiable.

96.4(4) Reapplication. A school district that is not successful in obtaining a certificate of need for the project that is the subject of the application may apply for a certificate of need in succeeding application periods if its circumstances change substantially.

96.4(5) Application timeline. A school district is to apply for a certificate of need either:

a. When the school district has received amounts that it intends to accumulate for new construction or for payment of debt related to new construction; or

b. When the school district board has accumulated amounts and wants to proceed with the new construction project or debt issuance related to new construction, whichever occurs first.

96.4(6) Compliance requirement on uses. All projects included in the application must be consistent with the provisions of the Americans With Disabilities Act and the Rehabilitation Act of 1973, Section 504, as both are codified on February 7, 2024, and Iowa Code chapter 104A.
[ARC 7800C, IAB 4/17/24, effective 5/22/24]

281—96.5(423E,423F) Review process.

96.5(1) Task force. The department will form a task force to review applications for certificate of need and to provide recommendations to the SBRC. The department will invite participants from large, medium, and small school districts, the state fire marshal's office, education and professional organizations, or other individuals knowledgeable in school infrastructure and construction issues. The department, in consultation with the task force, will establish the parameters and criteria for awarding certificates of need based on information listed in Iowa Code section 423E.4(5), which includes consideration of the following:

- a. Enrollment trends in the grades that will be served at the new construction site.
- b. The cost-benefit analysis of remodeling, reconstructing, or repairing existing buildings.
- c. The fire and health safety needs of the school district.
- d. The distance, convenience, cost of transportation, and accessibility of the new construction site to the students to be served at the new construction site.
- e. Unavailability of alternative, less costly, or more effective means of serving the needs of the students.
- f. The financial condition of the school district, including the effect of the budget adjustment and unspent balance.
- g. Broad and long-term ability of the school district to support the facility and the quality of the academic program.
- h. Cooperation with other educational entities including other school districts, area education agencies, postsecondary institutions, and local communities.

96.5(2) Task force review. The task force, or a subcommittee of the task force, and its designees, will review each application and make recommendations to the school budget review committee regarding approval of certificates of need based on the evidence provided by the applicant pursuant to subrule 96.4(2) and the criteria listed in subrule 96.5(1). More than one member of the task force or subcommittee of the task force and its designees shall review each application. A reviewer will not review any application in which the reviewer has a conflict of interest.

96.5(3) Approval process. Applications will be reviewed and recommended for approval or denial based on any or all of the following individual or collective criteria, with each applicable criterion scored on a scale of zero to ten. Applicable scores will be averaged. Nonapplicable criteria will not be used in determining the average score. An application shall have a minimum average score of five to be eligible to be recommended for approval. If an application receives a score of zero on one or more applicable criteria, the application will not be recommended for approval. A recommendation for approval by the task force does not constitute final approval of the application. The following categories on the application will be evaluated and scored:

- a. Infrastructure needs the project proposes to alleviate. Special consideration shall be given to infrastructure needs that relate to fire or health safety issues.
- b. Evidence that remodeling, reconstructing, or repairing the existing buildings is not feasible.
- c. Unavailability of alternative, less costly, or more effective means of serving student needs.
- d. Improvement of transportation distance, convenience, cost and accessibility with the new construction.
- e. Sustainable financial condition and long-term financial stability of the school district.
- f. Evidence that the proposed project will improve educational opportunities for students and enable the school district to meet or exceed educational standards.
- g. Current comprehensive, districtwide infrastructure plan and the description of how this project fits within that plan.
- h. Description of collaboration with one or more other public or private entities.

96.5(4) *Ineligibility for approval.* If either of the following two descriptions applies to the school district, the school district is not eligible for a certificate of need unless a feasibility study conducted within the past three years pursuant to Iowa Code section 256.9(30) and the AEA plan pursuant to Iowa Code sections 275.1 through 275.4 determine that sharing, reorganization, or dissolution is not feasible for the school district.

a. The current enrollment or any of the five years of projected enrollments for the school district is fewer than 250 students.

b. The current enrollment or any of the five years of projected enrollments for the school district for grades 9 through 12 is fewer than a total of 100 students, if a high school building is the subject of the application.

96.5(5) *School budget review committee.* The SBRC will review the recommendations from the task force for approval of certificates of need and make recommendations on approval to the department for final consideration.

[ARC 7800C, IAB 4/17/24, effective 5/22/24]

281—96.6(423E,423F) Award process.

96.6(1) *Department determination.* The department will make the final determination on approval of certificates of need.

96.6(2) *Notification.* The department will notify applicants no later than two weeks following the date of receipt of the recommendations from the SBRC.

[ARC 7800C, IAB 4/17/24, effective 5/22/24]

281—96.7(423E,423F) Applicant responsibilities.

96.7(1) *Change in the project.* If a school district significantly changes the proposed project, the school district shall notify the department within ten working days of the change and submit a new application for a certificate of need for the newly changed project.

96.7(2) *Accounting for the funding.* All revenues and all expenditures from the statewide school infrastructure amounts are to be separately identified and accounted for in a capital projects fund established for the statewide sales and services tax for school infrastructure proceeds.

96.7(3) *Withdrawal of application.* If a school district is granted a certificate of need for a project and the school district elects not to continue with the project, the school district is to notify the department within ten working days following the board action to discontinue the project.

96.7(4) *Forfeiture of certificate.* Failure to comply with any of the rules in this chapter or provide information that is included in the certificate of need application or that is requested by the department may result in the forfeiture of the certificate of need or removal from the application cycle.

[ARC 7800C, IAB 4/17/24, effective 5/22/24]

281—96.8(423E,423F) Appeal of certificate denial. Any applicant may appeal the denial of a properly submitted application for certificate of need to the director of the department. Appeals are to be (1) in writing, (2) received within ten working days of the date of the notice of the decision to deny, and (3) based on a contention that 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. The hearing and appeals procedures found in 281—Chapter 6 that govern the director's decisions apply to any appeal of denial.

[ARC 7800C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 423E and 423F.

[Filed emergency 9/16/98—published 10/7/98, effective 9/16/98]

[Filed 10/26/98, Notice 9/9/98—published 11/18/98, effective 12/23/98]

[Filed emergency 8/4/00 after Notice 6/28/00—published 8/23/00, effective 8/7/00]

[Filed 4/20/05, Notice 2/16/05—published 5/11/05, effective 6/15/05]

[Filed 11/16/05, Notice 9/28/05—published 12/7/05, effective 1/11/06]

[Filed ARC 8384B (Notice ARC 8048B, IAB 8/26/09), IAB 12/16/09, effective 1/20/10]

[Filed ARC 9473B (Notice ARC 9373B, IAB 2/23/11), IAB 4/20/11, effective 5/25/11]

[Filed ARC 4811C (Notice ARC 4685C, IAB 10/9/19), IAB 12/18/19, effective 1/22/20]
[Filed ARC 7800C (Notice ARC 7596C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 97
SUPPLEMENTARY WEIGHTING

281—97.1(257) Definitions. For the purpose of this chapter, the following definitions apply:

“*Actual enrollment*” means the enrollment determined pursuant to Iowa Code section 257.6(1) “a.”

“*Career academy*” means a program of study as defined in 281—Chapter 46. A course offered by a career academy does not qualify as a regional academy course. A career academy course may qualify as a concurrent enrollment course if it meets the provisions of Iowa Code section 261E.8.

“*Class*” means a course for academic credit that applies toward a high school or community college diploma.

“*Department*” means the Iowa department of education.

“*Enrolled*” means that a student has registered with the school district and is taking part in the educational program.

“*Fraction of a school year*” means the product of the minutes per day of class multiplied by the number of days per year the class meets divided by the product of the total number of minutes in a school day multiplied by the total number of days in a school year. All minutes available in a normal day will be used in the calculation.

“*ICN*” means the Iowa Communications Network.

“*Political subdivision*” means a political subdivision in the state of Iowa and includes a city, a township, a county, a public school district, a community college, an area education agency, or an institution governed by the state board of regents (Iowa State University, University of Iowa, and University of Northern Iowa).

“*Project lead the way*” means the nonprofit organization with 501(c)(3) tax-exempt status that provides rigorous and innovative science, technology, engineering, and mathematics education curriculum founded in fundamental problem-solving and critical-thinking skills while integrating national academic and technical learning standards.

“*Regional academy*” means an educational program established by a school district to which multiple school districts send students in grades 7 through 12. The curriculum will include advanced-level courses and, in addition, may include career-technical courses, Internet-based courses, and coursework delivered via the ICN. Regional academy courses do not qualify as concurrent enrollment courses and do not generate any postsecondary credit. School districts participating in regional academies are eligible for supplementary weighting as provided in Iowa Code section 257.11(2).

“*Superintendent*” means the same as defined in Iowa Code section 256.145(15).

“*Supplant*” means the community college’s offering a course that consists of substantially the same concepts and skills as the content of a course provided by the school district or accredited nonpublic school or the community college’s offering a course that is required by the school district or accredited nonpublic school in order to meet the minimum accreditation standards in Iowa Code section 256.11. If a student is unable to earn credit in both courses, then the two courses would be deemed similar enough in content and skills to be defined as supplanting.

“*Supplementary weighting plan*” means a plan as defined in this chapter to add a weighting for each eligible Iowa resident student who is enrolled in an eligible class taught by a teacher employed by another school district or taught by a teacher employed jointly with another school district or sent to and enrolled in an eligible class in another school district or sent to and enrolled in an eligible community college class. The supplementary weighting for each eligible class is calculated by multiplying the fraction of a school year that class represents by the number of eligible Iowa resident students enrolled in that class and then multiplying that figure by the weighting factor established in Iowa Code chapter 257.

“*Teacher*” means the same as defined in Iowa Code section 256.145(16).

[ARC 7801C, IAB 4/17/24, effective 5/22/24]

281—97.2(257) Supplementary weighting plan.

97.2(1) Eligibility. Except if listed under subrule 97.2(7), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if one of the following conditions is met pursuant to Iowa Code section 257.11:

- a. Resident student attends class in another school district pursuant to subrule 97.2(2), or
- b. Resident student attends class taught by a teacher employed by another school district pursuant to subrule 97.2(3), or
- c. Resident student attends class taught by a teacher jointly employed by two or more school districts pursuant to subrule 97.2(4), or
- d. Resident student attends class in a community college for college credit pursuant to subrule 97.2(5), or
- e. Resident student attends class in a community college for college credit pursuant to subrule 97.2(6).

Other than as listed in paragraphs 97.2(1)“a” to “e” above and in rules 281—97.3(257), 281—97.4(257), and 281—97.7(257), no other sharing arrangement is eligible for supplementary weighting.

97.2(2) Attend class in another school district. Students attending class in another school district will be eligible for supplementary weighting under paragraph 97.2(1)“a” only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

97.2(3) Attend class taught by a teacher employed by another school district. Students attending class taught by a teacher employed by another school district will be eligible for supplementary weighting under paragraph 97.2(1)“b” only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

97.2(4) Attend class taught by a teacher jointly employed with another school district. All of the following conditions must be met for any student attending class taught by a teacher jointly employed to be eligible for supplementary weighting under paragraph 97.2(1)“c.” The school districts jointly employing the teacher must have:

- a. A joint teacher evaluation process and instruments.
- b. A joint teacher professional development plan.
- c. One single salary schedule.

Except for joint employment contracts that meet the provisions of paragraphs “a” to “c” above, no two or more school districts will list each other for the same classes and grade levels.

97.2(5) Attend class in a community college. To be eligible for supplementary weighting, a course will comply with Iowa Code section 257.11(3).

97.2(6) Attend a project lead the way class in a community college. Students attending a science, technology, engineering, or mathematics class that uses an activities-based, project-based, and problem-based learning approach and that is offered collaboratively by the students’ school district and a community college in partnership with a nationally recognized provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are eligible for supplementary weighting under paragraph 97.2(1)“e” if the curriculum provider is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

97.2(7) Ineligibility. The following students are ineligible for supplementary weighting:

- a. Nonresident students attending the school district under any arrangement except open enrolled in students, nonpublic shared-time students, or dual enrolled competent private instruction students in grades 9 through 12.
- b. Students eligible for the special education weighting plan provided in Iowa Code section 256B.9 when being served by special education programs or services that carry additional weighting.
- c. Students in whole-grade sharing arrangements except under sharing pursuant to subrule 97.2(5) or 97.2(7).
- d. Students open enrolled out except under sharing pursuant to subrule 97.2(5) or paragraph 97.6(1)“c.”

e. Students open enrolled in, except under sharing pursuant to subrule 97.2(5) or paragraph 97.6(1) “c,” when the students are under competent private instruction and are dual enrolled in grades 9 through 12.

f. Students participating in shared services rather than shared classes except under sharing pursuant to rule 281—97.7(257).

g. Students taking postsecondary enrollment options (PSEO) courses.

h. Students enrolled in courses or programs offered by their resident school districts unless those courses meet the conditions for attending classes in a community college under subrule 97.2(5) or if the teacher is employed by another school district pursuant to subrule 97.2(3) or if a teacher is jointly employed with another school district pursuant to subrule 97.2(4) or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

i. Students enrolled in courses or programs taught by teachers employed by their resident school districts unless the employment meets the criteria of joint employment with another school district under subrule 97.2(4) or if the criteria in subrule 97.2(5) are met for students attending class in a community college or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

j. Students enrolled in an at-risk program or alternative school program when being served by such program.

k. Students enrolled in summer school courses.

97.2(8) Whole-grade sharing. If all or a substantial portion of the students in any grade are shared with another one or more school districts for all or a substantial portion of a school day, then no students in that grade level are eligible for supplementary weighting except as authorized by rule 281—97.5(257). No students in the grade levels who meet the criterion in this subrule are eligible for supplementary weighting even in the absence of an agreement executed pursuant to Iowa Code sections 282.10 through 282.12. A district that discontinues grades pursuant to Iowa Code section 282.7 is deemed to be whole-grade sharing the resident students in those discontinued grades for purposes of these rules.

a. In a one-way whole-grade sharing arrangement, the receiving district may count its resident students in the grade levels that are whole-grade shared if the resident students are shared pursuant to subrule 97.2(2), 97.2(3), or 97.2(5).

b. In a one-way whole-grade sharing arrangement, the receiving district may not count its resident students in the grade levels that are whole-grade shared pursuant to subrule 97.2(3) if the teacher is employed by the same district that is sending students under the whole-grade sharing arrangement.

97.2(9) Due date. Supplementary weighting will be included with the certified enrollment that is due October 15 following the October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, on which the enrollment was taken.

[ARC 7801C, IAB 4/17/24, effective 5/22/24]

281—97.3(257) Supplementary weighting plan for a regional academy.

97.3(1) Eligibility. Except if listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if all of the following criteria are met:

a. Two or more Iowa school districts, other than a whole-grade sharing partner district, send students to advanced-level courses that are included in the curriculum of the regional academy, and these students are eligible for supplementary weighting under paragraph 97.2(1) “a” or “c.” In addition, for the host district to qualify for the minimum weighting pursuant to subrule 97.3(4), one or more Iowa school districts, other than a whole-grade sharing partner district, must send students to career-technical classes that are included in the curriculum of the regional academy.

b. The regional academy is located in the district.

c. The grade levels include one or more grades seven through twelve.

d. The curriculum is an organized course of study, adopted by the board, that includes a minimum of two advanced-level courses that are not part of a career-technical program. An advanced-level course is a course that is above the level of the course units required as minimum curriculum in 281—Chapter 12 in the host district.

e. The resident students are not eligible for supplementary weighting under another supplementary weighting plan.

f. No resident or nonresident students are attending the regional academy under a whole-grade sharing arrangement as defined in subrule 97.2(7).

g. Two or more sending districts that are whole-grade sharing partner districts will be treated as one sending district for purposes of paragraph 97.3(1)“a.”

h. The school districts participating in a regional academy will enter into an agreement on how the funding generated by the supplementary weighting received will be used and will submit the agreement, as well as a copy of the minutes of meetings of the local school district boards of directors in which the boards approved the agreement, to the department for approval by October 1 of the year in which the districts intend to request supplementary weighting for the regional academy.

97.3(2) *Weighting.* Resident students eligible for supplementary weighting pursuant to subrule 97.3(1) are eligible for a weighting of one-tenth of the fraction of a school year during which the pupil attends courses at the regional academy in which nonresident students are enrolled pursuant to paragraph 97.3(1)“a.”

97.3(3) *Maximum weighting.* The maximum amount of additional weighting for which a school district establishing a regional academy is eligible is an amount corresponding to 30 full-time-equivalent pupils.

97.3(4) *Minimum weighting.* The minimum amount of additional weighting for which a school district establishing a regional academy is eligible is an amount corresponding to 15 full-time-equivalent pupils if the academy provides both advanced-level courses and career-technical courses.

97.3(5) *Additional programs.* If all of the criteria in subrule 97.3(1) are met, the regional academy may also include in its curriculum career-technical courses, Internet-based courses and ICN courses.

97.3(6) *Career academy.* A career academy is not a regional academy for purposes of these rules.
[ARC 7801C, IAB 4/17/24, effective 5/22/24]

281—97.4(257) Supplementary weighting plan for whole-grade sharing.

97.4(1) *Whole-grade sharing.* A school district that participates in a whole-grade sharing arrangement executed pursuant to Iowa Code sections 282.10 to 282.12 and that has adopted a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization to take effect on or before July 1, 2024, is eligible to assign a weighting of one-tenth of the fraction of the school year during which resident pupils attend classes pursuant to paragraph 97.2(1)“a,”“b,” or “c.” A school district participating in a whole-grade sharing arrangement is eligible for supplementary weighting under this subrule for a maximum of three years. Receipt of supplementary weighting for the second year and for the third year is conditioned upon submission of information resulting from the study to the school budget review committee indicating progress or continued progress toward the objective of dissolution or reorganization on or before July 1, 2024.

97.4(2) *Contiguous districts.* School districts that adopt a board resolution jointly with all other affected boards to study reorganization must be contiguous school districts. If two or more of the affected districts are not contiguous to each other, all districts separating those districts must be a party to the whole-grade sharing arrangement and the board resolution adopted jointly to study reorganization.

97.4(3) *Consecutive years.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.4(1) is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose will not be later than the school year that begins July 1, 2024.

97.4(4) *Change in sharing districts.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.4(1) may enter into a whole-grade sharing arrangement with one or more different districts

for its second or third year of eligible weighting by adopting and filing a new joint board resolution pursuant to this subrule. Establishing a new whole-grade sharing arrangement does not extend the maximum number of years for which a school district is eligible.

97.4(5) Filing board resolutions. Each school district that adopts a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization will file a copy of the board resolution with the department not later than October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

97.4(6) Filing progress reports. Each school district that intends to assign a supplementary weighting to resident students attending class in a whole-grade sharing arrangement in any year following the initial year for which supplementary weighting for whole-grade sharing was approved will file a report of progress toward reorganization with the school budget review committee, on forms developed by the department, no later than August 1 preceding October 1 on which date the district intends to request the second or third year of supplementary weighting for whole-grade sharing.

a. The progress report will include the following information:

- (1) Names of districts with which the district is studying reorganization.
- (2) Descriptive information on the whole-grade sharing arrangement.
- (3) Information on whether a plan for reorganization has been approved by the AEA and an election date has been set.

b. The report must indicate progress toward a reorganization or dissolution to occur on or before July 1, 2024. The indicators of progress include:

- (1) For the second year of supplementary weighting, establishing a reorganization committee.
- (2) For the third year of supplementary weighting, having an AEA-approved plan for reorganization and a date set for an election on the proposed reorganization.

c. The school budget review committee will consider each progress report at its first regular meeting of the fiscal year and will accept the progress report or reject the progress report with comments. The reports will be evaluated on demonstrated progress within the past year toward reorganization or dissolution.

d. A school district whose progress report is not accepted will be allowed to submit a revised progress report at the second regular meeting of the school budget review committee. The committee will accept or reject the revised progress report.

e. If the school budget review committee rejects the progress report and the district does not submit a revised progress report or if the school budget review committee rejects the revised progress report, the school district is not eligible for supplementary weighting for whole-grade sharing but may reapply in a subsequent year.

f. In the event that an election on reorganization fails to pass after the school budget review committee has approved a district's application for whole-grade sharing supplementary weighting and prior to January 1 of the year in which the reorganization was to take effect, a district may rescind the request for whole-grade sharing supplementary weighting by submitting a request to the school budget review committee asking to withdraw the application. The request to withdraw the application must be completed no later than one week prior to the committee's second regular meeting.

[ARC 7801C, IAB 4/17/24, effective 5/22/24]

281—97.5(257) Supplementary weighting plan for ICN video services.

97.5(1) Eligibility. Except for students listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment, is not eligible for supplementary weighting for the same course under another supplementary weighting plan, and meets any of the criteria in paragraph 97.5(1) "a," "b," or "c." For purposes of this subrule, the portion of a course offered via ICN video services will be considered separately from the portion of the course not offered via ICN video services. Eligible students include:

a. Resident students who receive a virtual class provided by another school district via ICN video services.

b. Resident students who attend a virtual class that the resident district is providing to students in one or more other school districts via ICN video services.

c. Resident students who receive a virtual community college class via ICN video services. The community college class must be a course eligible for supplementary weighting under the criteria listed in subrule 97.2(5).

97.5(2) *Weighting.* Resident students eligible for supplementary weighting pursuant to subrule 97.5(1) are eligible for a weighting of one-twentieth of the fraction of the school year during which the pupil attends the virtual class.

97.5(3) *Payment to teachers.* A school district that includes students in a virtual class for supplementary weighting will reserve 50 percent of the supplementary weighting funding the district will receive as a result of including the resident students in the virtual class for supplementary weighting as additional pay for the virtual class teacher.

a. The employer of the virtual class teacher will make the payment.

b. The additional pay includes salary and the employer's share of FICA and IPERS.

c. The employer will pay the virtual class teacher during the same school year in which the virtual class is provided.

d. The employer may pay the virtual class teacher at the conclusion of the virtual class or may pay the teacher periodic payments that represent the portion of the virtual class that has been provided. The employer may not pay the teacher prior to services being rendered.

e. The additional pay is calculated as 0.5 multiplied by the supplementary weighting for the virtual class multiplied by the district cost per pupil in the subsequent budget year.

f. If the teacher's contract includes additional pay for teaching the virtual class, the teacher will receive the higher amount of the additional pay in the contract or the amount of the additional pay calculated pursuant to paragraphs 97.5(3) "b" and "e." For purposes of this comparison, the employer will compare the salary portions only.

g. The contract between the agencies will provide for the additional pay for the teacher of the virtual class. That 50 percent of the supplementary weighting funding would be paid in addition to the tuition sent to the providing district or community college to be paid as additional pay to its teacher employee.

[ARC 7801C, IAB 4/17/24, effective 5/22/24]

281—97.6(257) Supplementary weighting plan for operational services.

97.6(1) *Eligibility.* Supplementary weighting is available if all of the following criteria are met:

a. The district shares a discrete operational function with one or more other political subdivisions pursuant to a written contract.

b. The district shares an operational function for at least 20 percent of the contract time period during the fiscal year that is customary for a full-time employee in the operational function for at least 20 percent of the contract time period during the fiscal year. The 20 percent is measured each fiscal year and for each discrete operational function.

c. Personnel shared as part of an operational function are employees of one of the sharing partners but are not employees of more than one of the sharing partners.

d. If the district shares an operational function with more than one political subdivision, the sharing arrangement is listed only once for purposes of supplementary weighting.

e. If the district shares more than one individual in the same operational function, that operational function will be listed only once for the purposes of supplementary weighting.

f. No individual personnel will be included for operational function sharing more than once for supplementary weighting in the same fiscal year.

g. If more than one sharing arrangement is implemented in any one operational function area and the services shared are substantially similar as determined by the department, only the sharing arrangement implemented first will be eligible for supplementary weighting.

h. The operational function areas shared include one or more of the areas listed in subrule 97.6(2).

97.6(2) Operational function area eligibility. “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, facility operation or maintenance management, curriculum director, master social worker, independent social worker, school counselor, special education director, work-based learning coordinator, mental health professional if the mental health professional holds a statement of recognition issued by the board of educational examiners, school resource officer, or college and career transition counselor or coordinator. “Operational function sharing” does not mean sharing of clerical personnel or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

a. Superintendent management.

(1) Shared personnel perform the services of a superintendent, in the case of a school district, or chief administrator, in the case of an area education agency, or executive administrator, in the case of other political subdivisions. An individual performing the function of a superintendent or chief administrator must be properly licensed for that position.

(2) Clerical or other support services personnel in the superintendent function area or executive administrator function area will not be considered shared superintendent management under this subrule.

(3) Shared superintendent services or executive administrator services does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

b. Business management.

(1) Shared personnel perform the services of managing the business operations. Managing business operations includes personnel performing the duties of a business manager or school business official, or personnel performing duties including those listed in Iowa Code chapter 291 for a board secretary or board treasurer.

(2) Services of clerical personnel, school administration managers, superintendents, principals, teachers, board officers except those listed in subparagraph 97.6(2) “b”(1), or any other nonbusiness administration personnel are not considered shared business management under this subrule.

(3) Shared business management does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

c. Human resources management.

(1) Shared personnel perform the services of managing human resources.

(2) Services of clerical personnel, superintendents, principals, curriculum directors, teachers, or board officers are not considered shared human resources management under this subrule.

(3) Shared human resources management does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

d. Student transportation management.

(1) Shared personnel include transportation directors or supervisors. Shared personnel must perform services related to transportation.

(2) Services of school business officials, business managers, school administration managers, clerical or paraprofessional personnel, school bus mechanics, and school bus drivers are not considered shared student transportation management under this subrule.

(3) Shared transportation management does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

e. Facility operations and maintenance.

(1) Shared personnel include facility managers and supervisors of buildings or grounds. Shared personnel perform services related to facility operations and maintenance.

(2) Services of school business officials, business managers, school administration managers, clerical personnel or custodians are not considered shared facility operations and maintenance management for supplementary weighting under this subrule.

(3) Shared facility operations and maintenance management do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

f. Curriculum director.

(1) Shared personnel perform the services of a curriculum director.

(2) Technology directors and clerical, paraprofessional, or other support services personnel in the improvement of instruction function area are not considered a shared curriculum director under this subrule.

(3) Shared curriculum director services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

g. School counselor.

(1) Shared personnel perform the services of a school counselor. An individual performing the function of a school counselor must be properly licensed for that position.

(2) Deans of students, social workers, or clerical, paraprofessional, or other support services personnel in the guidance services function area are not considered a shared school counselor under this subrule.

(3) Shared school counselor services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

h. School social worker.

(1) Shared personnel perform the services of a school social worker. An individual performing the function of a school social worker must be properly licensed for that position.

(2) Social workers providing services required to be provided by an area education agency are not considered a shared school social worker under this subrule.

(3) Shared school social worker services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

i. Special education director.

(1) Shared personnel perform the services of a special education director. An individual performing the function of a special education director must be properly licensed for that position.

(2) Teachers, superintendents, principals, curriculum directors, or other support services personnel in the improvement of instruction services function area are not considered a shared special education director under this subrule.

(3) Shared special education director services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

j. Work-based learning coordinator.

(1) Shared personnel perform the services of a work-based learning coordinator. An individual performing the function of a work-based learning coordinator must be properly trained for that position.

(2) Superintendents, principals, curriculum directors, deans of students, school counselors, or other support services personnel in the guidance services function area are not considered a shared work-based learning coordinator under this subrule.

(3) “Work-based learning coordinator” means the same as defined in Iowa Code section 257.11(5)“a”(2).

(4) Shared work-based learning coordinator services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

k. Mental health professional.

(1) Shared personnel perform the services of a mental health professional. An individual performing the function of a mental health professional must hold a statement of professional recognition issued by the board of educational examiners.

(2) Deans of students, school counselors, or other support services personnel in the guidance services function area are not considered a shared mental health professional under this subrule.

(3) Shared mental health professional services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

l. School resource officer.

(1) Shared personnel perform the function of a school resource officer. An individual performing the function of a school resource officer must meet the definition in subparagraph 97.6(2) “l”(3).

(2) Deans of students, school business managers, school administration managers, school counselors, clerical personnel, paraprofessionals, private security guards, or custodians are not be considered shared school resource officers for supplementary weighting under this subrule.

(3) “School resource officer” means the same as defined in 34 U.S.C. Section 10389, as effective on February 7, 2024.

(4) Shared school resource officer services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

m. College and career transition counselor or coordinator.

(1) Shared personnel perform the services of a college and career transition counselor or coordinator as defined in subparagraph 97.6(2) “m”(3).

(2) Superintendents, principals, curriculum directors, deans of students, school counselors, work-based learning coordinators, or other support services personnel in the guidance services function area are not considered a shared college and career transition counselor or coordinator under this subrule.

(3) “College and career transition counselor or coordinator” means the same as defined in Iowa Code section 257.11(5) “a”(2).

(4) Shared college and career transition counselor or coordinator services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

97.6(3) Eligibility. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, 2013.

a. Receipt of supplementary weighting is conditioned upon the submission of information provided in the format prescribed by the department as part of the BEDS fall data collection.

b. The documentation on the BEDS fall data collection will be filed no later than the published deadline for that data collection.

97.6(4) Consecutive years. A school district that is eligible to add a supplementary weighting for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose will not be later than the school year that begins July 1, 2034.

97.6(5) Change in sharing partners. A school district that is eligible to add a supplementary weighting for a shared operational function may enter into an operational function sharing arrangement with one or more different sharing partners.

97.6(6) Change in shared personnel. A school district that is eligible to add a supplementary weighting for a shared operational function may enter into an operational function arrangement for a different individual in a substantially similar position.

97.6(7) Multiple shared operational functions. A school district that implements more than one sharing arrangement within any discrete operational function area is eligible for supplementary weighting for only one sharing arrangement in that discrete operational function.

97.6(8) Multiple shared individuals within an operational function. A school district that implements more than one sharing arrangement within any discrete operational function area, as both the contract holder and the purchaser of services, are not eligible for supplementary weighting if the sharing arrangements would not have been necessary had the district utilized its own properly licensed and qualified employee(s).

97.6(9) Weighting. A school district that shares an eligible operational function listed in subrule 97.6(2) is assigned a supplementary weighting as stipulated in Iowa Code section 257.11(5).

97.6(10) Maximum weighting. The maximum amount of additional weighting for which a school district participating in operational function sharing is eligible in a budget year is an amount corresponding to 21 full-time equivalent pupils. The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function. Each eligible

discrete operational function sharing arrangement is included in the total of all operational function sharing. If the district's total of all discrete operational function sharing exceeds 21 full-time equivalent pupils, the department will make a reduction in the total rather than separately adjusting the discrete operational function sharing that made up the total.

97.6(11) *Uses of funding.* Additional funds provided through supplementary weighting for operational function sharing will be used for any general fund purpose pursuant to rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).
[ARC 7801C, IAB 4/17/24, effective 5/22/24]

281—97.7(261E) Concurrent enrollment program contracts between accredited nonpublic schools and community colleges. For the purpose of determining funding to the community college, subject to an appropriation to the department for this purpose, a student enrolled in a unit of concurrent enrollment coursework offered through a contract by an accredited nonpublic school with an Iowa community college pursuant to Iowa Code section 261E.8(2) will be counted as if the student were assigned a weighting as described in subrule 97.2(5).

97.7(1) *Eligibility.* To be eligible for supplementary weighting, a course will comply with Iowa Code section 257.11(3).

97.7(2) *Reporting and billing.* An accredited nonpublic school that enters into a contract for concurrent enrollment courses will submit student and course information as determined by and according to the timeline established by the department. The community college and accredited nonpublic school will verify the submitted information by semesters or the equivalent. Projected supplementary weighting calculations will be available midyear, but payments to community colleges will not be disbursed until final costs are known at the end of the school year. Community colleges will not bill the accredited nonpublic school until all calculations of supplementary weighting for accredited nonpublic schools are completed.

[ARC 7801C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 257.6, 257.11, and 257.12 and chapter 261E.

[Filed emergency 8/13/99—published 9/8/99, effective 8/13/99]

[Filed 10/21/99, Notice 9/8/99—published 11/17/99, effective 12/22/99]

[Filed 10/20/00, Notice 8/23/00—published 11/15/00, effective 12/20/00]

[Filed 8/2/02, Notice 5/29/02—published 8/21/02, effective 9/25/02]

[Filed 11/19/03, Notice 10/1/03—published 12/10/03, effective 1/14/04]

[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]

[Filed ARC 8188B (Notice ARC 7611B, IAB 3/11/09), IAB 10/7/09, effective 11/11/09]

[Filed ARC 9266B (Notice ARC 9016B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 0014C (Notice ARC 9908B, IAB 12/14/11), IAB 2/22/12, effective 3/28/12]¹

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 0520C (Notice ARC 0385C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 1119C (Notice ARC 0967C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]²

[Filed Emergency ARC 1486C, IAB 6/11/14, effective 5/15/14]

[Filed ARC 1596C (Notice ARC 1499C, IAB 6/11/14), IAB 9/3/14, effective 10/8/14]

[Filed ARC 4297C (Notice ARC 4156C, IAB 12/5/18), IAB 2/13/19, effective 3/20/19]

[Filed ARC 4812C (Notice ARC 4686C, IAB 10/9/19), IAB 12/18/19, effective 1/22/20]

[Filed ARC 6080C (Notice ARC 5877C, IAB 8/25/21), IAB 12/15/21, effective 1/19/22]

[Filed ARC 6292C (Notice ARC 6185C, IAB 2/9/22), IAB 4/20/22, effective 5/25/22]

[Filed ARC 6723C (Notice ARC 6585C, IAB 10/5/22), IAB 12/14/22, effective 1/18/23]

[Filed ARC 7801C (Notice ARC 7597C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

¹ March 28, 2012, effective date of 97.1, “regional academy,” and 97.4(1) “c,” “h” delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

² November 20, 2013, effective date of ARC 1119C [97.7] delayed until the adjournment of the 2014 General Assembly by the Administrative Rules Review Committee at its meeting held November 8, 2013.

CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS

281—98.1(256,257) Definitions. For the purposes of this chapter, the following definitions apply:

“Budgetary allocation” means the portion of the funding that is specifically earmarked for a particular purpose or designated program and that, in the case of the general fund, has been rolled into, or added to, the school district cost per pupil or school district regular program cost. Budgetary allocations may include both state aid and property tax. Budgetary allocations increase budget authority on the first day of the fiscal year for which the allocation has been certified or on the date that the school budget review committee approves the modified supplemental amount for a specific purpose or program; the budget authority remains even if the full amount of revenue is not received or if the local board does not levy a cash reserve. There is no assumption that a school district or area education agency will receive the same amount of revenue as it has received in budget authority due to delinquent property taxes, cuts in state aid, or legislative decisions to fund other instructional programs off the top of state aid. The school district or area education agency must expend the full amount of budget authority for the specific purposes for which it was earmarked. When the school district or state cost per pupil is transferred from one school district to another school district in the form of tuition as required by the Iowa Code, any budgetary allocation that is included in the school district or state cost per pupil will be considered transferred to the receiving school district and will be expended for the specific purpose for which it was earmarked.

“Categorical funding” means financial support from state and federal governments that is targeted for particular categories of students, special programs, or special purposes. This support is in addition to school district or area education agency general purpose revenue, is beyond the basic educational program, and most often has restrictions on its use. Where categorical funding requires a local match, that local match also is considered to be categorical funding. Categorical funding includes both grants in aid and budgetary allocations. Although grants in aid and budgetary allocations are both categorical funding, they are defined separately to distinguish unique characteristics of each type of categorical funding.

“Community education” means a life-long education process concerning itself with every facet that affects the well-being of all citizens within a given community. It extends the role of the school from one of teaching children through an elementary and secondary program to one of providing for citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.

“Grants in aid” means financial support, usually from state or federal appropriations, that is either allocated to the school district or area education agency or for which a school district or area education agency applies. This support is paid separately from state foundation aid. In the general fund, grants in aid become miscellaneous income and increase budget authority when the support is received as revenue.

“Supplement, not supplant” means, when a funding stream contains this provision, that the categorical funding is in addition to general purpose revenues; that categorical funding will not be used to provide services required by federal or state law, administrative rule, or local policy; and that general purpose revenues will not be diverted for other purposes because of the availability of categorical funding. Supplanting is presumed to have occurred if the school district or area education agency uses categorical funding to provide services that it was required to make available under other categorical funding or law, or uses categorical funding to provide services that it provided in prior years from general purpose revenues, or uses categorical funding to provide services to a particular group of children or programs for which it uses general purpose revenues to provide the same or similar services to other groups of children or programs. These presumptions are rebuttable if the school district or area

education agency can demonstrate that it would not have provided the services in question with general purpose revenues if the categorical funding had not been available.

“*Technology*” means hardware, noninstructional software and software required to provide functionality to the hardware, wireless presenters, networking and connectivity systems, computing storage, website development services, hardware carrying equipment, licensing, and technical assistance for installation of hardware, software, or software updates. Technology does not include such items as instructional software or textbook substitutes as defined in Iowa Code chapter 301, professional development, staff providing support to teachers or students, general supplies, district personnel or individuals/companies hired or contracted in lieu of district personnel, travel, printing costs or media services not listed in this definition, insurance, most purchased services, or similar district functions. Maintenance contracts do not meet the definition of “technology” unless they are actually a license renewal fee; Internet subscriptions, licenses, or fees; cable or satellite services; or very similar services. [ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.2(256,257) General finance. The categorical funding provided for various purposes to school districts and area education agencies includes general financial characteristics that are detailed in the following subrules:

98.2(1) Indirect cost recovery. Categorical funding provided by the state to school districts or area education agencies is not eligible for indirect cost recovery unless the Iowa Code section authorizing the funding or allocation expressly states that indirect cost recovery is permitted from that source. If the Iowa Code permits indirect cost recovery, the school district or area education agency will utilize its restricted indirect cost rate developed by the department for federal programs from data submitted by the school district or area education agency on its certified annual report.

98.2(2) Mandatory carryforward. Notwithstanding the flexibility account as described in rule 281—98.27(257,298A), any portion of categorical funding provided by the state that is not expended by the end of the fiscal year in which it was received by or for which it was allocated to the school district or area education agency will be carried forward as a reserved fund balance and added to the subsequent year’s budget for that purpose. The funding can only be expended for the purposes permitted for that categorical funding. Where a local match is required for categorical funding, the amount unexpended at the end of the fiscal year that is carried forward will not be used as part of the required local match.

98.2(3) Discontinued funding. In the event that a categorical funding source is discontinued and an unexpended balance remains, the school district or area education agency may do one of, or a combination of, the following:

a. Carry forward the unexpended balance and expend the remaining balance within the subsequent 24 months for the purposes that were allowed in the final year that the funding was allocated or granted prior to discontinuation unless a rule in this chapter provides for a longer period. This option does not apply to market factor incentive pay funding, which may be carried forward until expended, but any expenditures from the market factor incentive pay funding must be appropriate under Iowa Code section 284.11.

b. Transfer the unexpended balance to the flexibility account as described in rule 281—98.27(257,298A).

98.2(4) Expenditures. Expenditures from categorical funding are limited to direct costs of providing the program or service for which the funding was intended. Expenditures will not include costs that are allocated costs or that are considered indirect costs or overhead. Expenditures for the functions of administration, business and central services, operation and maintenance of plant, transportation, enterprise and community service operations, facility acquisition and construction, or debt service generally are not allowed from categorical funding unless expressly allowed by the Iowa Code or if the expenditure represents a direct, allowable cost. In order for costs of administration, business and central services, operation and maintenance of plant, transportation, or enterprise and community service operations to be considered direct costs, the costs must be necessary because of something that is unique to the program that is causing the need for the service, not otherwise needed or not otherwise provided to similar programs; the costs must be in addition to those that are normally incurred; and the

costs must be measurable directly without allocating. Where a local match is required for categorical funding, that local match requirement will not be met by the use of other categorical funding except where expressly allowed by the Iowa Code. Expenditures do not include reimbursing the school district or area education agency for expenditures it paid in a previous year in excess of the funding available for that year.

98.2(5) *Restriction on duplication.* The school district or area education agency will not charge the same cost to more than one funding source.

98.2(6) *Excess expenditures.* The school district or area education agency will not charge to categorical funding more expenditures than the total of the current year's funding or allocation, plus any carryforward balance from the previous year, plus any moneys designated from the flexibility account as described in rule 281—98.27(257,298A).

98.2(7) *Commingling prohibited.* Categorical funding shall not be commingled with other funding. All categorical funding will be accounted for separately from other funding. School districts and area education agencies will use a project code and program code as defined by Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as appropriate or required.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.3 to 98.10 Reserved.

DIVISION II
APPROPRIATE USE OF BUDGETARY ALLOCATIONS

281—98.11(257) Categorical and noncategorical student counts. The certified enrollment data collection includes both student counts related to budgetary allocations for the subsequent budget year that are provided for the purpose of offering a program that is in addition to the basic educational program for a specific category of students and student counts that are general in nature and can be used for any legal general fund purpose. Student counts that are general in nature are used to generate funding through the school aid foundation formula and are not intended to fund a specific program or a specific category of students. General student counts include the basic enrollment of full-time resident students.

Counts for part-time nonpublic students participating in public school classes pursuant to Iowa Code section 257.6(3) and counts for part-time dual enrolled competent private instruction students in grades 9 through 12 are the full-time equivalent enrollment of a regularly enrolled student. Counts for dual enrolled competent private instruction students in grades lower than grade 9 are the legislatively set equivalent of a regularly enrolled full-time student. Counts for part-time nonpublic students and for part-time dual enrolled competent private instruction students in grades 9 through 12 who participate in the postsecondary enrollment option Act classes are the full-time equivalent of a regularly enrolled student based on cost. Because these counts are the full-time equivalent of a regularly enrolled student, and are not in addition to the full-time equivalent, the funding generated within the school aid foundation formula based on these counts is considered general in nature.

Student counts related to categorical budgetary allocations are those that generate funding intended to be used for only that specific category of students being counted or for the specific program for which the additional counts are authorized in the Iowa Code.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.12(257,299A) Home school assistance program. The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district. If a district offers a home school assistance program, the state foundation aid that the district receives pursuant to Iowa Code section 257.6(1)“a”(5), and any amount designated for this purpose from the flexibility account as described in rule 281—98.27(257,298A), will be expended for purposes of providing the home school assistance program. However, a district may use items and materials purchased for the home school assistance program for other purposes so long as this use does not prevent or interfere with the item's or material's use by parents or students utilizing the program.

98.12(1) *Appropriate uses of categorical funding.* Appropriate uses of the home school assistance program funding include the following:

- a. Instruction for students and assistance for parents with instruction.
- b. Services to support students enrolled in a home school assistance program, to support the teaching parents of the students, and to support home school assistance program staff.
- c. Salary and benefits for the supervising teacher of the home school assistance program. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, then the portion of time that is related to providing the home school assistance program can be charged to the program, but the regular classroom portion cannot.
- d. Salary and benefits for clerical and office staff of the home school assistance program. If the staff member's employment supports other programs of the school district, only that portion of the staff member's salary and benefits that is related to providing the home school assistance program can be charged to the program.
- e. Staff development for the home school assistance program teacher.
- f. Travel for the home school assistance program teacher.
- g. Resources, materials, computer software, supplies, equipment, and purchased services (1) that are necessary to provide the services of home school assistance and (2) that will remain with the school district for its home school assistance program.
- h. A copier and computer hardware that support the home school assistance program.
- i. Student transportation exclusively for home school assistance program-approved field trips or other educational activities.

98.12(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the home school assistance program funding include indirect costs or use charges; operational or maintenance costs other than those necessary to operate and maintain the program; capital expenditures other than equipment or the lease or rental of space to supplement existing schoolhouse facilities for the program; student transportation except in cases of home school assistance program-approved field trips or other educational activities; administrative costs other than the costs necessary to administer the program; concurrent and dual enrollment costs, including postsecondary enrollment options program costs; or any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys or resources paid for with this program funding to parents or students utilizing the program. For capital expenditures for lease or rental of classrooms or facilities for this program, the cost will be expended from a capital projects fund. A reimbursement for that cost related to the program will be an interfund transfer to the capital project fund from the program funding.

98.12(3) *Flexibility account.* All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2017, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2, provided all statutory requirements of the home school assistance program have been met, including funding all requests for services and materials from parents or guardians of students eligible to access the program.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.13(256C,257) *Statewide voluntary four-year-old preschool program.* The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

98.13(1) *Appropriate uses of categorical funding.* Foundation aid funding provided for the program may be used by approved local programs and community providers for any purpose designated by the board of directors of the school district to meet standards for high-quality preschool instruction and for purposes that directly or indirectly benefit students enrolled in the approved local program. These purposes include the following:

- a. Functions of instruction, including instructional equipment and supplies and material and equipment designed to develop students' large and small motor skills.

- b. Functions of student support services, including translation services.
- c. Functions of staff support services, including professional development for preschool teachers.
- d. Up to 5 percent of the allocation can be used for actual documented costs of program administration, outreach activities, and rent for facilities not owned by the school district.
- e. Food and beverages used by enrolled students.
- f. Safety equipment.
- g. Playground equipment and repair costs.
- h. Costs of transportation involving children participating in the approved program. The costs of transporting other children associated with the preschool program or transporting as provided in Iowa Code section 256C.3(3) "h" may be prorated by the school district.
- i. Other direct costs that enhance the approved local program, including contracting with community providers for such services.
- j. Costs of attendance for a child who is younger or older than four years old and is enrolled in the program may be paid from these funds, or from another school district account or fund from which preschool program expenditures are authorized by law, if space and funding are available; however, the child will not be counted for statewide voluntary preschool program funding purposes.

98.13(2) *Pass-through funding to community-based providers.* The school district will pass through to a community-based provider for each eligible pupil enrolled in the district's approved local program not less than 95 percent of the per-pupil amount.

a. The community-based provider may use up to 10 percent of the 95 percent portion for documented allowable administrative and operational costs of providing the district's approved local program. The costs of outreach activities, rent for facilities not owned by the school district, and transportation for children participating in the preschool program are also permissive costs allowed as part of the 10 percent under this paragraph.

b. Any portion of the 95 percent not documented as expended for direct instruction or administrative and operational costs as allowed by this rule will be refunded to the district annually on or before July 1.

c. Any portion refunded to the district will be added to the total amount available for the district's approved local program for the subsequent school year, excluding the portion of such unexpended and unobligated funding that the school district authorizes to be transferred to the district's flexibility account described in rule 281—98.27(257,298A).

98.13(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the statewide voluntary four-year-old preschool program funding include indirect costs or use charges, capital expenditures other than equipment, facility acquisition not expressly allowed by the Iowa Code, construction, debt service, operational or maintenance costs or administrative costs that supplant or that exceed 5 percent, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

98.13(4) *Flexibility account.* All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2017, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2 and described in rule 281—98.27(257,298A), provided the board of directors of the school district has determined all statutory requirements for the use of such funding have been met.

In order to transfer funds to the flexibility account, the district must have provided preschool programming during the fiscal year for which funding remained unexpended and unobligated to all eligible students for whom a timely application for enrollment was submitted.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.14(257) *Supplementary weighting.* Supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of students and staff between school districts and providing postsecondary opportunities for qualified students. It is assumed that supplementary weighting covers only a portion of the costs of sharing or providing postsecondary opportunities and will be fully expended within the fiscal year. Therefore,

school districts need not account for the supplementary weighting funding separate from the general purpose revenues.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.15(257) Operational function sharing supplementary weighting. Operational function sharing supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of management-level staff. It is assumed that operational function sharing supplementary weighting covers only a portion of the costs of sharing staff identified in Iowa Code section 257.11(5) and will be fully expended within the period of sharing. Therefore, school districts need not account for the operational function sharing supplementary weighting funding separate from general purpose revenues.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.16(257,280) English learner weighting. English learner weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of providing funding for the excess costs of instruction of English learners above the costs of instruction of pupils in a regular curriculum. In addition, the school budget review committee may grant a modified supplemental amount to continue funding of the excess costs beyond the five years of weighting. Funding for the English learner weighting and the modified supplemental amount for English learner programs are both categorical funding and may have different restrictions than the federal English learner funding.

98.16(1) Appropriate uses of categorical funding. Appropriate uses of funding for the English learner program are those that are direct costs of providing instruction that supplement, but do not supplant, the costs of the regular curriculum. These expenditures include salaries and benefits of teachers and paraeducators; instructional supplies, textbooks, and technology; classroom interpreters; support services to students served in English learner programs above the services provided to pupils in regular programs; support services to instructional staff such as targeted professional development, curriculum development or academic student assessment; and support services provided to parents of English learners and community services specific to English learners.

98.16(2) Inappropriate uses of categorical funding. Inappropriate uses of funding for the English learner program include indirect costs, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the English learner program beyond the scope of the regular classroom.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.17(256B,257) Special education weighting. Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.18(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting. Formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to students identified as at-risk, potential or returning dropouts, and secondary students attending an alternative program or alternative school pursuant to Iowa Code section 257.11(4)“a.”

98.18(1) Appropriate uses of categorical funding. Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils, alternative programs and alternative schools for secondary students, and returning dropout and dropout prevention programs. Appropriate uses include those identified in subrule 98.21(2).

98.18(2) Inappropriate uses of categorical funding. Inappropriate uses of at-risk formula supplementary weighting program funding include those identified in subrule 98.21(3).

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.19(257) Reorganization incentive weighting. Reorganization incentive weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting reorganization of school districts to increase student learning opportunities. It is assumed that reorganization incentive weighting covers only a portion of the costs of reorganizing and will be fully expended within the fiscal year. Therefore, school districts need not account for the reorganization incentive weighting funding separate from the general purpose revenues.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.20(257) Gifted and talented program. Gifted and talented program funding is included in the school district cost per pupil calculated for each school district under the school foundation formula. The per-pupil amount increases each year by the supplemental state aid percentage. This amount must account for not more than 75 percent of the school district's total gifted and talented program budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total gifted and talented program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the gifted and talented program. The 75 percent portion, the local match, amounts designated from the flexibility account as described in rule 281—98.27(257,298A), and all donations and grants will be accounted for as categorical funding.

The purpose of the gifted and talented funding described in Iowa Code section 257.46 is to provide for identified gifted students' needs beyond those provided by the regular school program pursuant to each gifted student's individualized plan. The funding will be used only for expenditures that are directly related to providing the gifted and talented program.

98.20(1) *Appropriate uses of categorical funding.* Appropriate uses of the gifted and talented program funding include:

a. Salary and benefits for the teacher of gifted and talented students. If the teacher is a part-time gifted and talented and a part-time regular classroom teacher, then only the portion of time that is related to the gifted and talented program may be charged to the program.

b. Staff development for the gifted and talented teacher.

c. Resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

(1) Meet the needs of K through 12 identified students,

(2) Are beyond those provided by the regular school program,

(3) Are necessary to provide the services listed on the gifted students' individualized plans, and

(4) Will remain with the K through 12 gifted and talented program.

d. Student transportation exclusively for approved gifted and talented program field trips or other educational activities.

98.20(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the gifted and talented program funding include indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than field trips exclusive to this program, administrative costs, or any other expenditures not directly related to providing the gifted and talented program beyond the scope of the regular classroom.

98.20(3) *Provisions for teacher salary supplement use.* Beginning July 1, 2023, all or a portion of the money carried forward from a prior year or received in the current year as gifted and talented funds may be restricted for use limitations described in rule 281—98.24(257,284).

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.21(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program—modified supplemental amount. A modified supplemental amount is available through a school district-initiated request to the school budget review committee pursuant to Iowa Code sections 257.38 through 257.41. This amount must account for no more than 75 percent of the school district's total at-risk program, alternative program or alternative school, and potential or returning dropout budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25

percent of the total program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The 75 percent portion, local match, previous year carryforward, amounts designated from the flexibility account as described in rule 281—98.27(257,298A), and all donations and grants will be accounted for as categorical funding.

98.21(1) *Purpose of categorical funding.* The purpose of the modified supplemental amount is to provide funding to meet the needs of identified students for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4). The funding will be used only for expenditures that are directly related to the district's board-adopted program plan established pursuant to Iowa Code sections 257.38 through 257.41.

a. Returning dropouts are resident pupils who have been enrolled in a school district in any of grades 7 through 12 who withdrew from school for a reason other than transfer to another school or school district and who subsequently reenrolled in a public school in the school district.

b. Potential dropouts are resident pupils who are enrolled in a school district who demonstrate poor school adjustment as indicated by two or more of the following:

- (1) High rate of absenteeism, truancy, or frequent tardiness.
- (2) Limited or no extracurricular participation or lack of identification with school, including to expressed feelings of not belonging.
- (3) Poor grades, including failing in one or more school subjects or grade levels.
- (4) Low achievement scores in reading or mathematics that reflect achievement at two years or more below grade level.
- (5) Children in grades kindergarten through 3 who meet the definition of at-risk children adopted by the department of education.

98.21(2) *Appropriate uses of categorical funding.* Appropriate uses of the funding for a board-adopted program include:

a. Salary and benefits for staff, including instructional staff, instructional support staff, administrative staff, and guidance counselors; salary and benefits or contract payments for psychologists licensed under Iowa Code chapter 154B, licensed independent social workers or master social workers under Iowa Code chapter 154C, licensed mental health counselors under Iowa Code chapter 154D; and salaries and benefits for school-based youth services staff dedicated to providing services directly and exclusively to the identified students participating in the adopted program beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. However, if the staff person works part-time or on a contract basis with students who are participating in the approved program and has another unrelated staff assignment, only the portion of the person's time that is related to the program or with such students may be charged to the program funding. The school district will have the authority to designate in its adopted program plan the portion of the person's time and related salary and benefits or contract payment amount dedicated to this purpose.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program that is offered at a location off school grounds and that is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk to accelerate through multiple grade levels of achievement within a shortened time frame.

b. Professional development for all staff identified in paragraph 98.21(2)“a” working with identified students under an adopted program.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of kindergarten through grade 12 identified students,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's adopted at-risk or returning dropout and dropout prevention program plan, and
- (4) Will remain with the kindergarten through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program outside a student's regular attendance center, located in and provided by another Iowa school district, or an extended school year program.

e. The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.

f. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

- (1) The child does not require special education.
- (2) The child is not placed by the department of health and human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.
- (3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.
- (4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

g. Costs incurred for a program intended to address high rates of absenteeism, truancy, or frequent tardiness.

h. Amounts that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide, buildingwide, or grade-specific at-risk and dropout prevention programming targeted to nonidentified students.

i. School security personnel costs.

j. Any purpose determined by the board of directors that directly benefits students participating in the adopted program.

98.21(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the modified supplemental amount program funding include indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, expenses related to the routine duties and activities performed by a staff member under paragraph 98.21(2) "a" with identified students that are also provided to all students, or any other expenditures not directly related to providing the board-adopted program beyond the scope of the regular classroom.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.22(257) Use of the unexpended general fund balance. The unexpended general fund balance refers to the fund balance remaining in the general fund at the end of the fiscal year.

98.22(1) *Authorization required.* The school budget review committee may authorize a school district to spend a reasonable and specified amount from its unexpended general fund balance for either of the following purposes:

a. Furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the school district have approved a bond issue as provided by law or the tax levy provided in Iowa Code section 298.2.

b. The costs associated with the demolition of an unused school building, or the conversion of an unused school building for community use, in a school district involved in a dissolution or reorganization under Iowa Code chapter 275, if the costs are incurred within three years of the dissolution or reorganization.

98.22(2) *Appropriate uses of categorical funding.* Appropriate uses of the unexpended general fund balance include a transfer from the general fund to the capital projects fund in the amount approved by

the school budget review committee. The moneys in the capital projects fund will be used exclusively for furnishing, equipping or constructing a new building or for demolishing an unused building.

98.22(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the unexpended general fund balance include expenditures for salaries or recurring costs.

98.22(4) *Mandatory reversion of unused funding.* The portion of the unexpended general fund balance that is authorized to be transferred and expended will increase budget authority. However, any part of the amount not actually spent for the authorized purpose will revert to its former status as part of the unexpended general fund balance, and budget authority will be reduced by the amount not actually spent.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.23(257) Early intervention supplement.

98.23(1) *Appropriate uses of categorical funding.* Appropriate uses of the early intervention-supplement funding include any general fund-appropriate use described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

98.23(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the early intervention-supplement funding include those that are inappropriate to the general fund as described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

98.23(3) *Deference.* Deference will be given to the decisions of school districts' boards of directors in accordance with Iowa Code section 257.10.

This rule is intended to implement Iowa Code section 257.9(8).

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.24(257,284) Teacher salary supplement. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of a school district and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

98.24(1) *Appropriate use of categorical funding.* Appropriate use of the teacher salary supplement funding is limited to additional salary for teachers, including amounts necessary for the district to comply with statutory teacher salary minimums; the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294; and payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10(4). Teacher salary supplement funding is intended to be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining and it would not be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency will carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

98.24(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the teacher salary supplement funding include any expenditures other than the appropriate use described in subrule 98.24(1) hereof.

98.24(3) *Deference.* Deference will be given to the decisions of school districts' boards of directors in accordance with Iowa Code section 257.10.

98.24(4) *Rule of construction.* Flexibility provided in 2023 Iowa Acts, House File 68, will be applied to this categorical fund.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.25(257,284) Teacher leadership supplement. The purpose of the teacher leadership supplement is to improve instruction and elevate the quality of teaching and student learning.

98.25(1) *Appropriate uses of categorical funding.* Appropriate uses of teacher leadership supplement funding may be used to increase the payment for a teacher assigned to a leadership role pursuant to a framework or comparable system approved pursuant to Iowa Code section 284.15; to increase the percentages of teachers assigned to leadership roles; to increase the minimum teacher

starting salary to \$33,500; to cover the costs for the time mentor and lead teachers are not providing instruction to students in a classroom; for coverage of a classroom when an initial or career teacher is observing or co-teaching with a teacher assigned to a leadership role; for professional development time to learn best practices associated with the career pathways leadership process; for other costs associated with a framework or comparable system approved by the department of education under Iowa Code section 284.15 with the goals of improving instruction and elevating the quality of teaching and student learning, or as described in subrule 98.25(4). “Payment for a teacher” as used in this rule means additional salary for teachers and the amount required to pay the employer’s share of the federal social security and Iowa public employees’ retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294. Appropriate uses also include payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10(4) and payment to another school district receiving an open enrolled student pursuant to Iowa Code section 282.18.

98.25(2) *Inappropriate uses of categorical funding.* Inappropriate uses of teacher leadership supplement funding include any expenditures other than the appropriate uses described in subrule 98.25(1).

98.25(3) *Flexibility account.* All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2020, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2, provided all statutory requirements of the teacher leadership program have been met.

98.25(4) *Additional provision.* Beginning July 1, 2023, all or a portion of the money carried forward from a prior year or received in the current year as teacher leadership supplement funds may be restricted for use limitations described in rule 281—98.24(257,284).

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.26(257,284) Educator quality professional development, also known as professional development supplement. The purpose of the funding is to implement the professional development provisions of the teacher career paths and leadership roles specified in Iowa Code section 284.15.

98.26(1) *Appropriate uses of categorical funding.* Appropriate uses of the educator quality professional development funding, and any amount designated for professional development purposes from the flexibility account as described in rule 281—98.27(257,298A), are limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; activities and pay to support a beginning teacher mentoring and induction program that meets the requirements of Iowa Code section 284.5; pay for substitute teachers, professional development materials, speakers, and professional development content; textbooks and curriculum materials used for classroom purposes if such textbooks and curriculum materials include professional development; administering assessments pursuant to Iowa Code sections 256.7(21) “b”(1) and 256.7(21) “b”(2) if such assessments include professional development; costs associated with implementing the individual professional development plans; and payments to a whole grade sharing partner school district as negotiated as part of the new or existing agreement pursuant to Iowa Code section 282.10(4). Reasonable efforts will be made to provide equal access to all teachers.

98.26(2) *Inappropriate uses of categorical funding.* Inappropriate uses of educator quality professional development funding include any expenditures that supplant professional development opportunities the school district otherwise makes available.

98.26(3) *Deference.* Deference will be given to the decisions of school districts’ boards of directors in accordance with Iowa Code section 257.10.

98.26(4) *Transfer to flexibility account.* All or a portion of the moneys received as professional development supplement that remain unexpended and unobligated at the end of a fiscal year may be transferred for deposit to the flexibility account as described in rule 281—98.27(257,298A).

In order to transfer funds to the flexibility account, all requirements of Iowa Code chapter 284 must be met.

98.26(5) Additional provision. Beginning July 1, 2023, all or a portion of the moneys carried forward from a prior year or received in the current year as professional development supplement funds may be restricted for use limitations described in rule 281—98.24(257,284).
[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.27(257,298A) Flexibility account. Beginning with the budget year beginning July 1, 2017, in accordance with Iowa Code section 298A.2, a flexibility account will be established in the general fund of each school corporation if the school corporation has authorized a transfer of all or a portion of its unexpended and unappropriated funds from any of the following sources: the statewide voluntary preschool program, the professional development supplement, the teacher leadership supplement, and the home school assistance program. Additionally, moneys from any other school district fund or general fund account can be transferred to the flexibility account if the program, purpose, or requirements for expenditure of such moneys have been repealed or are no longer in effect.

98.27(1) Requirements for transfer to the flexibility account. In order to transfer funds to the flexibility account, the board of directors of the school corporation must determine that the statutory requirements for the source funds have been met as described in Iowa Code section 298A.2.

98.27(2) Requirements for use of funds deposited to the flexibility account. Expenditures from the flexibility account will be approved by a resolution of the board of directors of the school corporation that meets all requirements stipulated in Iowa Code section 298A.2.

98.27(3) Appropriate uses of categorical funding. Appropriate uses of funds transferred to the flexibility account are limited to the purposes described in Iowa Code section 298A.2.

98.27(4) Inappropriate uses of categorical funding. Inappropriate uses of funds within the flexibility account include any expenditures for purposes not specified in Iowa Code section 298A.2.

98.27(5) Deference. Deference will be given to the decisions of school districts' boards of directors in accordance with Iowa Code section 257.10.
[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.28 to 98.39 Reserved.

DIVISION III
APPROPRIATE USE OF GRANTS IN AID

281—98.40(256,257,298A) Grants in aid. The state provides a large amount of categorical funding for various purposes to school districts and area education agencies in the form of grants in aid. Only those grants in aid allocated to a substantial number of the school districts and area education agencies through the department of education are included in these rules.
[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.41 Reserved.

281—98.42(257,284) Beginning teacher mentoring and induction program. The purpose of the beginning teacher mentoring and induction program is to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts and area education agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers. Effective July 1, 2017, this program is addressed within educator quality professional development as described in rule 281—98.26(257,284).
[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.43(257,284A) Beginning administrator mentoring and induction program. The purpose of the beginning administrator mentoring and induction program is to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

98.43(1) *Appropriate uses of categorical funding.* Appropriate uses of the beginning administrator mentoring and induction program funding include costs to provide each mentor with the statutory award for participation in the school district's beginning administrator mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district.

98.43(2) *Inappropriate uses of categorical funding.* Inappropriate uses of beginning administrator mentoring and induction program funding includes any costs that are not listed in subrule 98.43(1) as appropriate uses.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.44(257,301) Nonpublic textbook services. Textbooks adopted and purchased by a school district will, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools.

98.44(1) *Appropriate uses of categorical funding.* The appropriate use of the nonpublic textbook services funding is for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. "Textbooks" means the same as defined in Iowa Code section 301.1(3).

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code will be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended will also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

In the event that a participating accredited nonpublic school ceases operation, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code will be returned to the public school district in which the nonpublic school was located. Funds provided for the purpose of purchasing textbooks for the nonpublic school that are unexpended will be reverted to the department of education.

98.44(2) *Inappropriate uses of categorical funding.* Inappropriate uses of nonpublic textbook services funding include reimbursements to accredited nonpublic schools for purchases made by the accredited nonpublic school, sectarian textbooks, computer hardware other than laptop computers or other portable personal computing devices that are used for nonreligious instructional use only, installation of hardware or other purchased services, teacher manuals or any other materials not available to the students attending the accredited nonpublic school, or any other expenditure that does not fit the definition of textbook. Funding provided for one nonpublic school located within the boundaries of the public school district will not be used for another accredited nonpublic school, even if the accredited nonpublic school is associated with the same parent organization.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.45(279) Early literacy. School districts will provide intensive supplemental reading instruction to any student who has been identified as persistently at risk in reading, based upon an assessment or through teacher observations, and other activities required or authorized by Iowa Code section 279.68.

98.45(1) *Appropriate uses of categorical funding.* Appropriate uses of early literacy program funding include services and activities listed in Iowa Code section 279.68 and 281—Chapter 16.

98.45(2) *Inappropriate uses of categorical funding.* Inappropriate uses of early literacy program funding include indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.45(1), or administrative costs.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.46 to 98.59 Reserved.

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds. Tax levies or funds that are required by law to be expended only for the specific items listed in statute will be accounted for in a similar way to categorical funding. Each fund is mutually exclusive and completely independent of any other fund. No fund may be used as a clearing account for another fund, no fund may retire the debt of another fund unless specifically authorized in statute, and transfers between funds will be accomplished only as authorized in statute or as approved by the school budget review committee. Public funds shall not be used for private purposes. [ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund. All moneys received by a school corporation from taxes and other sources will be accounted for in the general fund, except moneys required by law to be accounted for in another fund. If another fund specifically lists an expenditure to that other fund, it is assumed not to be appropriate to the general fund unless statute expressly states that it is an appropriate general fund expenditure. Each school district and each area education agency will have only one general fund.

98.61(1) Sources of revenue in the general fund. Sources of revenue in the general fund include all moneys not required by law to be accounted for in another fund and interest on the investment of those moneys. Proceeds from the sale or disposition of property other than real property, proceeds from the lease of real or other property, compensation or rent received for the use of school property, sales of school supplies, and sales or rentals of textbooks will be accounted for in the general fund. Proceeds for loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the general fund. Any revenue or receipt described in law as “miscellaneous income” or related to the modified supplemental amount is restricted to the general fund.

98.61(2) Appropriate uses of the general fund. Appropriate expenditures in the general fund include the following:

- a. Providing day-to-day operations to the district or area education agency, such as salaries, employee benefits, purchased services, supplies, and expenditures for instructional equipment.
- b. Purchasing school buses from unobligated funds on hand.
- c. Establishing and maintaining dental clinics for children and offering courses of instruction on oral hygiene.
- d. Employing public health nurses.
- e. Funding insurance agreements if the district has not certified a district management levy.
- f. Purchasing books and other supplies to be loaned, rented, or sold at cost to students.
- g. Purchasing safety eye-protective devices and safety ear-protective devices.
- h. Purchasing bonds and premiums for bonds for employees who have custody of funds belonging to the school district or area education agency or funds derived from extracurricular activities and other sources in the conduct of their duties.
 - i. Paying assessed costs related to changes in boundaries, reorganization, or dissolution.
 - j. Publishing the notices and estimates and the actual and necessary expenses of preparing the budget.
 - k. Engraving and printing school bonds, in the case of a school district.
 - l. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48 and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, where the original proceeds were accounted for in the general fund.

m. Transferring interest and principal to the debt service fund when due for lease purchase agreements related to capital projects authorized under Iowa Code section 273.3(7), in the case of an area education agency.

n. Funding asbestos projects including the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, and developing of management plans and record-keeping requirements relating to the presence of asbestos in school buildings and its removal or encapsulation as authorized by the school budget review committee in the case of a school district.

o. Funding energy conservation projects entered into with the department of natural resources or its duly authorized agents or representatives pursuant to Iowa Code section 473.20, in the case of a school district.

p. Transferring to a capital projects fund as authorized by the school budget review committee, in the case of a school district.

q. Transferring to a capital projects fund as funds are due to be expended on a capital project authorized under Iowa Code section 273.3(7), in the case of an area education agency.

r. Start-up costs, other than land purchase, for the first year of a new student construction program.

s. Beginning with the budget year beginning July 1, 2016, transferring, by board resolution, to the student activity fund an amount necessary to purchase or, beginning with the budget year beginning July 1, 2018, recondition protective and safety equipment required for any extracurricular interscholastic athletic contest or competition that is sponsored or administered by an organization as defined in Iowa Code section 280.13, as allowed under Iowa Code section 298A.2 pursuant to Iowa Code section 298A.8(2).

t. Paying any other costs not required to be accounted for in another fund.

u. Paying for costs of activity programming required pursuant to rule 281—12.6(256) from funds other than those required to be accounted for in the student activity fund pursuant to Iowa Code section 298A.8.

98.61(3) *Inappropriate uses of the general fund.* Inappropriate expenditures in the general fund include the following:

a. Purchasing land or improvements.

b. Purchasing or constructing buildings or for capital improvements to real property except under special circumstances authorized by the school budget review committee, in the case of a school district, or except as authorized under Iowa Code section 273.3(7), in the case of an area education agency.

c. Modifying or remodeling school buildings or classrooms even if to make them accessible.

d. Paying interest and principal on long-term indebtedness for which the original proceeds were not accounted for in the general fund.

e. Funding lease-purchases.

f. Purchasing portable buildings.

g. Paying individuals or private organizations that are not audited and allowed and related to goods received or services rendered.

h. Paying other costs that are not operating or current expenditures for public education and are not expressly authorized in the Iowa Code.

98.61(4) *Special levies.* The general fund includes two special levy programs available to school districts, but not to area education agencies, that are restricted by the Iowa Code.

a. Instructional support program. The instructional support program is a district-initiated program to provide additional funding to the district's general fund.

(1) Appropriate uses of instructional support program funding. Moneys received by a district for the instructional support program may be used for any general fund purpose except those listed as inappropriate uses in subparagraph 98.61(4) "b"(2).

(2) Inappropriate uses of instructional support program funding. Moneys received by a district for the instructional support program will not be used as, or in a manner that has the effect of, supplanting funds authorized to be received under Iowa Code sections 257.41 (returning dropouts and dropout prevention programs), 257.46 (gifted and talented programs), 298.4 (management fund levy), and 298.2

(physical plant and equipment fund levy), or to cover any deficiencies in funding for special education instructional services resulting from the application of the special education weighting plan under Iowa Code section 256B.9.

b. Educational improvement program. The educational improvement program is a district-initiated program available to districts in special circumstances to provide additional funding to the district's general fund if the district already has the instructional support program in place.

(1) Appropriate uses of educational improvement program funding. Moneys received by a district for the educational improvement program may be used for any general fund purpose.

(2) Inappropriate uses of educational improvement program funding. Inappropriate uses of educational improvement program funding include any expenditure not appropriate to the general fund. [ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.62(279,296,298,670) Management fund. The purpose of this fund is to pay the costs of unemployment benefits; early retirement benefits; insurance agreements; liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards; and judgments or settlements relating to such liability. The authority to establish a management fund is available to school districts but not to area education agencies.

98.62(1) Sources of revenue in the management fund. Sources of revenue in the management fund include a property tax and interest on the investment of those moneys.

98.62(2) Appropriate uses of the management fund. Appropriate expenditures in the management fund include the following:

- a.* Costs of unemployment benefits as provided in Iowa Code section 96.31.
- b.* Costs of liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards.
- c.* Costs of final court judgments, including judgments for attorney fees and court costs, entered against the district or a settlement made for a tort liability claim including interest accruing on the judgment or settlement to the expected date of payment.
- d.* Costs, including prepaid costs, of insurance agreements to protect the school districts from tort liability, loss of property, environmental hazards, or other risk associated with operations, but not including employee benefit plans.
- e.* Costs of early retirement benefits to employees under Iowa Code section 279.46 to pay a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging employees to retire before the normal retirement date for employees 55 years of age or older who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following school calendar.
- f.* Costs of a physical inventory or cybersecurity vulnerability study conducted solely for the purpose of insurance.
- g.* Transfers to the debt service fund for payment of principal and interest when due on general obligation bonds issued under Iowa Code section 296.7 to protect the school district from tort liability, loss of property, environmental hazards, or other risk associated with operations.
- h.* Transfers to the appropriate fund for the portion of an insurance claim that was eligible under the insurance agreement but was denied because it was within the deductible limit.
- i.* Payment of costs of mediation and arbitration, including legal fees associated with such mediation or arbitration, but not including the results of the mediation or arbitration if those costs do not qualify under paragraph 98.62(2) "c" above.

98.62(3) Inappropriate uses of the management fund. Inappropriate expenditures in the management fund include the following:

- a.* Costs for employee health benefit plans.
- b.* Costs to conduct physical inventories of property for purposes other than insurance.
- c.* Costs to conduct actuarial studies.
- d.* Costs for supplies or capital outlay.

e. Transfer to a trust fund for other postemployment benefit (OPEB) cost or estimated cost calculated pursuant to Governmental Accounting Standards Board (GASB) Statement 45.

f. Any other costs not expressly authorized in the Iowa Code.
[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.63(298) Library levy fund. The board of directors of a school district in which there is no free public library may contract with any free public library for the free use of such library by the residents of the school district and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board will certify annually a tax sufficient to pay the library the agreed-upon consideration.

98.63(1) Sources of revenue in the library levy fund. Sources of revenue in the library levy fund include a property tax not to exceed \$0.20 per \$1,000 of assessed value of the taxable property of the district and interest on the investment of those moneys.

98.63(2) Appropriate uses of the library levy fund. Appropriate expenditures in the library levy fund include expenditures necessary to provide a free public library.

98.63(3) Inappropriate uses of the library levy fund. Inappropriate expenditures in the library levy fund include the following:

- a.* Capital expenditures related to land or buildings.
- b.* Debt service.
- c.* Any other costs not necessary to provide a free public library.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.64(279,283,297,298) Physical plant and equipment levy (PPEL) fund. The physical plant and equipment levy (PPEL) consists of the regular PPEL not to exceed \$0.33 per \$1,000 of assessed valuation and a voter-approved PPEL not to exceed \$1.34 per \$1,000 of assessed valuation, for a total of \$1.67. The authority to establish a PPEL fund is available to school districts but not to area education agencies.

98.64(1) Sources of revenue in the PPEL fund. Sources of revenue in the PPEL fund include a property tax, income surtax, and interest on the investment of those moneys, and proceeds from loan agreements in anticipation of the collection of the voter-approved property. Proceeds from the condemnation, sale or disposition of real property are revenue to the PPEL fund. Proceeds from loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the PPEL fund. If the school board intends to enter into a rental, lease, or loan agreement, only a property tax will be levied for those purposes.

98.64(2) Appropriate uses of the PPEL fund. Appropriate expenditures in the PPEL fund include the following:

- a.* Purchase of grounds including the legal costs relating to the property acquisition, costs of surveys of the property, costs of relocation assistance under state and federal law, and other costs incidental in the property acquisition.
- b.* Improvement of grounds including grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks that are not parts of building service systems; demolition work; and special assessments against the school district for public improvements.
- c.* Construction of schoolhouses or buildings.
- d.* Construction of roads to schoolhouses or buildings.
- e.* Purchasing, leasing, or lease-purchasing equipment or technology exceeding \$500 in value per purchase, lease, or lease-purchase transaction.

(1) “Equipment” means both equipment and furnishings. The cost limitation for equipment does not apply to recreational equipment pursuant to paragraph 98.64(2)“n” or equipment that becomes an

integral part of real property such as furnaces, boilers, water heaters, and central air-conditioning units that are included in repairs to a building pursuant to paragraph 98.64(2) “h.”

(2) “Transaction” means a business deal or agreement between a school district and a provider of goods or services. Technology may be bundled for purposes of exceeding \$500 per transaction.

f. Transferring to debt service for payments, when due, of debts contracted for the erection or construction of schoolhouses or buildings, not including interest on bonds.

g. Procuring or acquisition of library facilities.

h. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and the additions to existing schoolhouses. “Repairing” means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance. “Reconstructing” means rebuilding or restoring as an entity a thing that was lost or destroyed. “Maintenance” means to cause to remain in a state of good repair or to keep equipment in effective working condition and ready for daily use. Maintenance includes cleaning, upkeep, inspecting for needed maintenance, preserving the existing state or condition, preventing a decline in the existing state or condition, and replacing parts, unless otherwise a repair.

i. Energy conservation projects.

j. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48, for loans in anticipation of the collection of the voter-approved property under Iowa Code section 297.36, and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, when the original proceeds were accounted for in the PPEL fund.

k. The rental of facilities under Iowa Code chapter 28E.

l. Purchase of transportation equipment for transporting students and for repairing such transportation equipment when the cost of the repair exceeds \$2,500. “Repairing,” for purposes of this paragraph, means restoring an existing item of transportation equipment to its original condition, as near as may be, after gradual obsolescence of physical and functional use due to wear and tear, corrosion and decay, or partial destruction, and includes maintenance that meets the definition of equipment and repair and the cost of which exceeds \$2,500. Effective October 2, 2019, “repairing” also means retrofitting transportation equipment when such retrofitting aligns to the school bus construction standards in 281—Chapter 44.

m. Purchase of buildings or lease-purchase option agreements for school buildings.

n. Purchase of equipment for recreational purposes.

o. Payments to a municipality or other entity pursuant to Iowa Code section 403.19(2).

p. Asbestos projects including costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, development of management plans and record-keeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.

q. Purchase, erect, or acquire a building for use as a school meal facility, and equip a building for that use.

r. Purchase of land as part of start-up costs for a new student construction program or if the sale proceeds of the previous student construction were insufficient to purchase land, but not for materials and supplies for a facility intended to be sold.

s. Construction materials and supplies for a student-constructed building or shed intended to be retained by and used by the district.

t. Demolition of a district-owned building.

u. Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

98.64(3) *Inappropriate uses of the PPEL fund.* Inappropriate expenditures in the PPEL fund include the following:

a. Student construction materials and supplies for a facility intended to be sold.

b. Salaries and benefits.

c. Travel.

- d. Supplies.
 - e. Facility, vehicle, or equipment maintenance.
 - f. Printing costs or media services.
 - g. Any other purpose not expressly authorized in the Iowa Code.
- [ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.65(276,300) Public educational and recreational levy (PERL) fund. Boards of directors of school districts may establish and maintain for children and adults public recreation places and playgrounds, and necessary accommodations for the recreation places and playgrounds, in the public school buildings and on the grounds of the district. Financial support for the community education program will be provided from funds raised pursuant to Iowa Code chapter 300 and from any private funds and any federal funds made available for the purpose of implementing community education. Districts with a PERL fund may maintain their PERL fund. Districts no longer have the authority to authorize a new PERL fund.

98.65(1) Sources of revenue in the PERL fund. Sources of revenue in the PERL fund include a property tax levy not to exceed \$0.135 per \$1,000 of assessed valuation, any appropriation by the agencies involved in a cooperative effort under Iowa Code chapter 28E, federal grants, donations, and interest on the investment of those moneys.

98.65(2) Appropriate uses of the PERL fund. Appropriate expenditures in the PERL fund include the following:

- a. Establishing and maintaining recreation places and playgrounds, including necessary accommodations, that are open to the public.
- b. Providing public educational and recreational activities.
- c. Establishing and supervising a community education program.
- d. Providing a community education director if a community education program is established.

98.65(3) Inappropriate uses of the PERL fund. Inappropriate expenditures in the PERL fund include the following:

- a. Programs that are not available to those living in the district boundaries.
- b. Costs not necessary to provide programs for community education and for recreation places, playgrounds, and programs open to the public.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.66(257,279,298A,565) District support trust fund. The district support trust fund is used to account for moneys received in trust where those moneys, both principal and interest, are to benefit the school district. The school district or area education agency will not transfer its own resources to a district support trust fund. If the school district or area education agency has more than one district support trust, it will use locally assigned project codes pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies to identify the different trusts in the same fund. The district support trust fund is not an irrevocable trust. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in the district support trust fund. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility as the trustee.

98.66(1) Sources of revenue in the district support trust fund. Sources of revenue in the district support trust fund include donations of cash, investment instruments, property, and interest on investments held. In a district support trust fund, both principal and interest are available to benefit the school district's programs.

98.66(2) Appropriate uses of the district support trust fund. Appropriate expenditures in the district support trust fund include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.66(3) *Inappropriate uses of the district support trust fund.* Inappropriate expenditures in the district support trust fund include transfers to nonprofit or private organizations or any expenditure that is not consistent with the terms of the agreement, legal to a school district, or for the benefit of the school district.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.67(257,279,298A,565) Permanent funds. Permanent funds are used to account for resources received that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the school district's programs. The school district or area education agency will not transfer its own resources to a permanent fund. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in permanent funds. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility of the moneys.

98.67(1) *Sources of revenue in the permanent funds.* Sources of revenue in the permanent funds include donations of cash, investment instruments, property, and interest on investments held. In permanent funds, only interest is available to benefit the school district's programs.

98.67(2) *Appropriate uses of the permanent funds.* Appropriate expenditures in the permanent funds include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.67(3) *Inappropriate uses of the permanent funds.* Inappropriate expenditures in the permanent funds include transfers to nonprofit or private organizations, expenditure from principal, or any expenditure that is not consistent with the terms of the agreement, or legal to a school district, or for the benefit of the school district, or any expenditure from the principal portion.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.68(76,274,296,298,298A) Debt service fund. A debt service fund is used to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest. A school district or area education agency will have only one debt service fund.

98.68(1) *Sources of revenue in the debt service fund.* Sources of revenue in the debt service fund include the levy on taxable property authorized by the voters pursuant to Iowa Code section 298.21 and necessary to service bonds that mature in the current year, transfers from other funds for payments of interest and principal when due that are required under a loan, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code, and earnings from temporary investment of moneys in the debt service fund.

98.68(2) *Appropriate uses of the debt service fund.* Appropriate expenditures in the debt service fund include the following:

a. Payment of principal and interest of the lawful bonded indebtedness maturing in the current year as it becomes due. In determining how much is necessary to service bonds that mature in the current year, the board of directors will consider the amount of earnings from temporary investments of debt service funds and beginning cash balances.

b. Payment of costs of registration of public bonds or obligations.

c. Payment of additional amounts as the board deems necessary to apply on the principal.

d. Payment of principal and interest when due that are required under a loan agreement, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code other than bonded indebtedness paid from resources transferred for that purpose to the debt service fund from other funds.

e. Payment of transfers to the PPEL fund by board resolution when funds remain in the debt service fund after payment of the entire balance of outstanding debt in accordance with the original purpose of the bonded indebtedness and after return of any excess amount transferred into the debt service fund from another fund or other indebtedness. The voters in the district may authorize the district to transfer

the remaining balance to the general fund instead of the PPEL fund pursuant to Iowa Code section 278.1(1) “e.”

98.68(3) *Inappropriate uses of the debt service fund.* Inappropriate expenditures in the debt service fund include payment of debt issued by one fund from resources transferred from a different fund unless expressly authorized by the Iowa Code and any other expenditure not listed in subrule 98.68(2).
[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.69(76,273,298,298A,423E,423F) Capital projects fund. Capital projects funds are used to account for financial resources to acquire or construct major capital facilities and to account for revenues from the state sales and services tax for school infrastructure. Boards of directors of school districts are authorized to establish more than one capital projects fund as necessary.

98.69(1) *Sources of revenue in the capital projects fund.* Sources of revenue in a capital projects fund include sale of general obligation bonds, grants and donations for capital facility projects, and transfers from other funds that authorized indebtedness for capital facility projects or that initiated a capital facility project or that received grants or other funding for capital projects, and tax receipts or revenue bonds issued for the state sales and services tax for school infrastructure. In the case of an area education agency, transfers from the general fund to a capital projects fund are limited to payments from proceeds accounted for in the general fund when payments are due on a capital project under a lease-purchase agreement pursuant to Iowa Code section 273.3(7).

98.69(2) *Appropriate uses of the capital projects fund.*

a. Appropriate expenditures in a capital projects fund, excluding state/local option sales and services tax for school infrastructure fund, include the following:

(1) Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, or teachers’ or superintendents’ home(s). Prior to approving the use of revenues for an athletic facility infrastructure project within the scope of the school district’s approved revenue purpose statement, the board of directors shall adopt a resolution setting forth the proposal for the athletic facility infrastructure project and hold an additional public hearing on the issue of construction of the athletic facility as stipulated in Iowa Code section 423F.3(7).

(2) Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

(3) Transferring to the PPEL fund or debt service fund by board resolution any balance remaining in a capital projects fund after the capital project is completed and after return of any excess amount transferred into the capital projects fund from another fund. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund or debt service fund pursuant to Iowa Code section 278.1(1) “e.”

(4) Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

(5) School safety and security infrastructure listed in Iowa Code section 423F.3(6).

b. Appropriate expenditures in the state/local option sales and services tax for the school infrastructure capital projects fund shall be expended in accordance with a valid revenue purpose statement if a valid revenue purpose statement exists; otherwise, appropriate expenditures include the following in order:

(1) Payment of principal and interest on revenue bonds issued pursuant to Iowa Code sections 423E.5 and 423F.4 for which the revenue has been pledged.

(2) Reduction of debt service levies.

(3) Reduction of regular and voter-approved PPEL levies.

(4) Reduction of the PERL levy.

(5) Reduction of any schoolhouse tax levy under Iowa Code section 278.1(1) “e.”

(6) Any authorized infrastructure purpose of the district pursuant to Iowa Code section 423F.3(6), which includes the following:

1. Payment or retirement of outstanding general obligation bonded indebtedness issued for school infrastructure purposes.
2. Payment or retirement of outstanding revenue bonds issued for school infrastructure purposes.
3. Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, remodeling, or demolition of a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, or school bus garage.
4. Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.
5. Expenditures listed in Iowa Code section 298.3.
6. Expenditures listed in Iowa Code section 300.2.
- (7) Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.
- (8) School safety and security infrastructure listed in Iowa Code section 423F.3(6).

98.69(3) *Inappropriate uses of the capital projects fund.* Inappropriate expenditures in a capital projects fund include any expenditure not expressly authorized in the Iowa Code. Additionally, expenditures from the state sales and services tax for new construction or for payments for bonds issued for new construction in any district that has a certified enrollment of fewer than 250 pupils in the district or a certified enrollment of fewer than 100 pupils in the high school without a certificate of need issued, as described in Iowa Code chapter 423F, by the department of education. This restriction does not apply to payment of outstanding general obligation bonded indebtedness issued pursuant to Iowa Code section 296.1 before April 1, 2003. This restriction also does not apply to costs to repair school buildings; purchase of equipment, technology or transportation equipment authorized under Iowa Code section 298.3; or for construction necessary to comply with the federal Americans With Disabilities Act. [ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.70(279,280,298A) Student activity fund. The student activity fund must be established in any school district receiving moneys from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys collected through school activities are public funds that are the property of the school district and are under the financial control of the school board. Upon dissolution of an activity, such as a graduating class or student club, the surplus must be used to support other student activities in the student activity fund. Prudent and proper accounting of all receipts and expenditures in these accounts is the responsibility of the board secretary pursuant to Iowa Code section 291.6. School districts may maintain subsidiary records for student activities if those records are reconciled to the official records on a monthly basis; however, all official accounting records of the student activity fund shall be maintained within the school district's chart of account pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies.

98.70(1) *Sources of revenue in the student activity fund.* Sources of revenue in the student activity fund include income derived from student activities such as gate receipts, ticket sales, admissions, student club dues, donations, fund-raising events, any other receipts derived from student body cocurricular or extracurricular activities, contests, and exhibitions as well as interest on the investment of those moneys, and amounts transferred from the general fund under Iowa Code section 298A.2 as described in paragraph 98.61(2) "s."

98.70(2) *Appropriate uses of the student activity fund.* Appropriate expenditures in the student activity fund include ordinary and necessary expenses of operating school district-sponsored and district-supervised student cocurricular and extracurricular activities, including purchasing services from another school district to provide for the eligibility of enrolled students in interscholastic activities provided by the other school district when that school district does not provide an interscholastic activity for its students.

98.70(3) *Inappropriate uses of the student activity fund.* Inappropriate expenditures in the student activity fund include the following:

- a. Maintenance of funds raised by outside organizations.

- b.* The cost of bonds for employees having custody of funds derived from cocurricular and extracurricular activities in the conduct of their duties. These are costs to the general fund.
 - c.* Expenditures that lack public purpose.
 - d.* Payments to any private organization unless a fundraiser was held expressly for that purpose and the purpose of the fundraiser was specifically identified.
 - e.* Transfers to any other fund of any surplus within the fund.
 - f.* Payments more properly accounted for in another fund such as public tax funds, trust funds, state and federal grants, textbook/library book fines, fees, rents, purchases or sales, sales of school supplies, or curricular activities.
 - g.* Use of the student activity fund as a clearing account for any other fund.
 - h.* Cash payments to student members of activity groups.
 - i.* The cost of optional equipment or customizing uniforms.
 - j.* The cost of uniforms when the following two tests are not met:
 - (1) The activity is a part of the school's educational program, and
 - (2) The wearing of the uniform or equipment is necessary in order to participate.
 - k.* Hospital or medical claims for student injuries or procurement of student medical insurance.
 - l.* Optional costs related to activities that are not necessary to the cocurricular and extracurricular program such as promotional costs.
 - m.* Membership fees in student activity-related associations if the fees are optional, i.e., nonmember schools may participate in sponsored events.
 - n.* Costs to participate in or to allow students to participate in any cocurricular and extracurricular interscholastic athletic contest or competition not sponsored or administered by either the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union.
- [ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.71(298A) Entrepreneurial education fund. The entrepreneurial education fund is used to enhance student learning by encouraging students to develop and practice entrepreneurial skills at an early age and to foster a business-ready workforce in this state. A school corporation may establish an entrepreneurial education fund at the request of a student organization or club and upon approval by the school board.

98.71(1) Sources of revenue in the entrepreneurial education fund. Sources of revenue in the entrepreneurial education fund consist only of moneys earned through entrepreneurial activities or returns on investments made for entrepreneurial purposes by the student organization or club, private donations and private contributions, and any interest earned on such moneys that are deposited in the fund. At the request of a student organization or club and upon approval by the school board, a school corporation will transfer moneys in a student activity fund established under Iowa Code section 298A.8, for deposit by the student organization or club in an entrepreneurial education fund. However, a school corporation will not transfer such moneys unless the moneys are attributable through appropriate documentation to the specific student organization or club and unless the student organization or club shows through appropriate documentation that the student organization or club earned the moneys through entrepreneurial activities of starting, maintaining, or expanding a business venture, including a seasonal business venture, or rendering other labor or services in return for compensation. Entrepreneurial activities do not include charitable contributions or other donations or gifts received by the student organization or club for which no labor or services are rendered.

98.71(2) Appropriate uses of the entrepreneurial education fund. Appropriate uses of the entrepreneurial education fund are limited to expending only for investments made, or activities undertaken, for board-approved entrepreneurial purposes that include investing in a start-up company, early-stage company, or existing company developing a new product or new technology if the investment is in keeping with the education program of the school corporation; if the student organization or club or its members will, as a stated condition of the investment, take an active role in the company which active role directly relates to and furthers the educational purposes for which the student organization or club is established; and if a reasonable return upon the investment is expected.

98.71(3) *Inappropriate uses of the entrepreneurial education fund.* A student organization or club will not invest moneys from an entrepreneurial education fund for an entrepreneurial purpose in which a member of the student organization or club, an advisor or supervisor of the student organization or club, or an immediate family member of such persons, has a financial interest.

98.71(4) *Fund closure.* An entrepreneurial education fund may be closed at the request of the student organization or club for which the school corporation established the fund. All moneys in the fund on the date of closure and any subsequent return on an investment made with moneys from the fund will be deposited in the school district's student activity fund.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.72(256B,257,298A) Special education instruction fund. The special education instruction fund is used to account for the revenues and expenditures of the special education instructional program that an area education agency provides for its member districts under Iowa Code section 273.9(2). This does not include special education support services as provided by Iowa Code section 274.9(3) that are accounted for in the general fund.

98.72(1) *Sources of revenue in the special education instruction fund.* Sources of revenue in the special education instruction fund include sales of instructional services to districts with students in the special education instruction program and interest on the investment of those moneys.

98.72(2) *Appropriate uses of the special education instruction fund.* Appropriate expenditures in the special education instruction fund include those authorized to a school district pursuant to Iowa Code chapter 256B and 281—Chapter 41 and included in the written agreement with the school districts.

98.72(3) *Inappropriate uses of the special education instruction fund.* Inappropriate expenditures in the special education instruction fund include expenditures not allowed to school districts pursuant to Iowa Code chapter 256B and 281—Chapter 41, expenditures for special education support services provided pursuant to Iowa Code section 273.9(3), or expenditures for costs not included in the written agreement with the school districts.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.73(282,298A) Juvenile home program instruction fund. The juvenile home program instruction fund is used to account for the revenues and expenditures for the educational program for students residing in juvenile homes as provided by Iowa Code section 282.30. The juvenile home program supplements, but does not supplant, expenditures required of an area education agency under Iowa Code chapter 273. Revenues and expenditures related to federal or state grants serving students in the juvenile homes that supplement, rather than supplant, the juvenile home program are included in the general fund, rather than the juvenile home fund. Educational program costs for students served pursuant to individualized education programs (IEPs) will not be included in the claim described in Iowa Code section 282.31 in lieu of billing those costs to the resident district. Educational program costs for out-of-state resident students will not be included in the claim described in Iowa Code section 282.31 in lieu of billing those costs to the resident state agency. The area education agency (AEA) is responsible for stewardship of public funds and ensuring that all costs are ordinary and necessary costs of instruction and that classrooms are not overstaffed for the number of students. The AEA will compare its costs, services, and staffing to the costs, services, and staffing of a similar classroom in the school district in which the juvenile home is located to ensure that they are comparable.

98.73(1) *Sources of revenue in the juvenile home program instruction fund.* Sources of revenue in the juvenile home program instruction fund include an advance paid pursuant to Iowa Code section 282.31, tuition billed to Iowa resident districts or to out-of-state agencies, grants in aid and interest on the investment of those moneys.

98.73(2) *Appropriate uses of the juvenile home program instruction fund.* Appropriate expenditures in the juvenile home program instruction fund are ordinary and necessary expenditures approved by the department to provide an instructional program to students residing in juvenile homes and include:

a. Salary and benefits for classroom teachers and aides providing instruction to students placed in a juvenile home.

b. Professional development that is specific to strategies to meet the needs of students in placement for all classroom teachers and aides working with students placed in a juvenile home.

c. Research-based resources, materials, software, supplies, and equipment, and purchased services that are customarily considered instructional and that meet all of the following criteria:

(1) Meet the needs of school-age students placed in juvenile homes,

(2) Will remain with the AEA juvenile home program, and

(3) Do not duplicate support services responsibilities of the AEA or the responsibilities of the juvenile home in its agreement with the placement agencies.

d. Summer school when necessary for a valid, established educational reason such as being included in the student's IEP or pursuant to Iowa Code section 279.68.

e. Student support and instructional support expenditures to the extent that they are exclusively devoted to the juvenile home instructional program and are not administrative or clerical. This would include guidance services, curriculum development and instructional technology.

f. Administrative support to the extent the administrator is exclusively assigned to the juvenile home locations and is exclusively providing school-level administrative services directly for the student placed in the juvenile home or the classroom teachers. If the administrator is assigned part-time to the juvenile home locations, then only the portion of time that is exclusively and directly related to the juvenile home instructional programs may be charged to the program. The total administrative cost will not exceed 10 percent of the total of all allowable costs for the juvenile home program.

g. When the students are not required by the placement agency to remain at the juvenile home facility and the juvenile home has no responsibility for treatment in its agreement with the placement agency beyond custodial care, then rent may be allowed. Rent must be approved by the department. The space must be classroom space occupied exclusively by the AEA's instructional program and not include restrooms or any other common spaces. Only if rent is approved may any costs for operation or maintenance of that classroom space be allowed. The total administrative cost in paragraph 98.73(2) "f" and the total of rent and associated operation and maintenance will not exceed 20 percent of the total of all allowable costs for the juvenile home program.

h. Transportation provided by the AEA exclusively to transport students placed at the juvenile home to the students' resident school districts located in Iowa or to the school district in which the juvenile home is located.

98.73(3) *Inappropriate uses of the juvenile home program instruction fund.* Inappropriate expenditures in the juvenile home program instruction fund include the following:

a. Costs estimated or allocated that are expenditures of the agency, such as insuring agency property.

b. Costs that are not ordinary and necessary to provide instruction.

c. Costs related to the juvenile home facility, its responsibilities under the Iowa Code or its agreements with the placement agencies.

d. Costs that were or could have been filed with Medicaid for reimbursement.

e. Debt service.

f. Capital outlay related to facilities. This includes any costs for facility acquisition or construction services, including remodeling and facility repair.

g. Support services that are AEA responsibilities pursuant to the Iowa Code.

h. Rental when adequate space is available at the AEA or at the district of location or when the students need treatment provided by the juvenile home or need to remain at the juvenile home pursuant to the agreement between the juvenile home and the placement agency.

i. Costs of an audit.

j. Indirect costs.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.74(283A,298A) School nutrition fund. All school districts will operate or provide for the operation of lunch programs at all attendance centers in the school district. A school district may operate or provide for the operation of school breakfast programs at all attendance centers in the district, or

provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program.

98.74(1) Sources of revenue in the school nutrition fund. Sources of revenue in the school nutrition fund include food sales to pupils and adults, ancillary food services, state and federal grants in aid for the operation of a nutrition program, gifts, sales of services to other funds, donated government commodities, and interest on investment of school nutrition fund moneys. Also included are fees charged for providing food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board. The charges for such services must be no less than the actual costs involved in providing the services including the value of donated government commodities.

98.74(2) Appropriate uses of the school nutrition fund. Appropriate expenditures in the school nutrition fund include the following:

a. Expenditures necessary to operate a school breakfast or lunch program such as salaries and benefits for employees necessary to operate the food service program, food, purchased services, supplies, and school nutrition equipment not included in Iowa Code section 283A.9.

b. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board of directors of the school district if those costs are reimbursed by another fund, organization, or individual.

98.74(3) Inappropriate uses of the school nutrition fund. Inappropriate expenditures in the school nutrition fund include the following:

a. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises at less than actual costs involved in providing the services including the value of donated government commodities.

b. Operating transfers to any other fund other than to claim indirect costs.

c. Costs to purchase, construct, reconstruct, repair, remodel, or otherwise acquire or equip a building for use as a school meal facility. These costs are permitted from the PPEL fund.

d. Costs estimated or allocated that are expenditures of the district.

98.74(4) Unpaid student meals account. Beginning with the budget year beginning July 1, 2018, in accordance with Iowa Code section 283A.11, a school district may establish an unpaid student meals account in the school nutrition fund and may deposit in the account moneys received from private sources for purposes of paying student meal debt accrued by individual students as well as amounts designated for the account from the school district's flexibility account as described in rule 281—98.27(257,298A). Moneys deposited in the unpaid student meals account will be used by the school district only to pay individual student meal debt. The school district will set fair and equitable procedures for such expenditures.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.75(279,298A) Child care and before- and after-school programs fund. The board of directors of a school district may operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade 6 before and after school, or to both.

98.75(1) Sources of revenue in the child care fund. Sources of revenue in the child care fund include a fee established by the board for the cost of participation in the program. The fee will be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program is be responsible for payment of any agreed-upon fee. The board may require the parent or guardian to furnish transportation of the child. If the board does not establish a fee, it must finance the program through grants or donations. The board may utilize or make application for program subsidies from any existing child care funding streams.

98.75(2) Appropriate uses of the child care fund. Appropriate expenditures in the child care fund include salaries and benefits for employees necessary to operate the child care program or before- and after-school program, purchased services, supplies, and equipment.

Effective with the budget year beginning July 1, 2018, if the balance in the before- and after-school program exceeds the amount necessary to operate the before- and after-school program, the excess amount may, following a public hearing, be transferred to the general fund by a resolution of the board of directors of the school corporation that meets all provisions of Iowa Code section 298A.12. A transfer under this subrule does not increase a school district's authorized expenditures as defined in Iowa Code section 257.7.

98.75(3) *Inappropriate uses of the child care fund.* Inappropriate expenditures in the child care fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the child care program or before- and after-school program.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.76(298A) Regular education preschool fund. The board of directors of a school district may establish a preschool for students who are not of school age.

98.76(1) *Sources of revenue in the regular education preschool fund.* Sources of revenue in the regular education preschool fund include a fee established by the board for the cost of participation in the program. If a fee is established, the parent or guardian of a child participating in a program is responsible for payment of any agreed-upon fee. If the board does not establish a fee, it must finance the program through grants or donations. The statewide voluntary four-year-old preschool program established under Iowa Code chapter 256C will not be accounted for in the regular education preschool fund.

98.76(2) *Appropriate uses of the regular education preschool fund.* Appropriate expenditures in the regular education preschool fund include salaries and benefits for employees necessary to operate the regular education preschool program, purchased services, instructional supplies, and instructional equipment.

98.76(3) *Inappropriate uses of the regular education preschool fund.* Inappropriate expenditures in the regular education preschool fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the regular education preschool program or before- and after-school program.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.77(298A) Student construction fund. If the board of directors of a school district establishes a construction program whereby students learn a construction trade and the facility constructed is sold to cover costs of construction, the revenues and expenses will be accounted for in the student construction fund.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.78(298A) Other enterprise funds. Enterprise funds are used to account for any activity for which a fee is charged to external users for goods and services. Enterprise funds are required to be used to account for any activity whose principal revenue sources are fees and charges to recover the costs of providing goods or services where those fees and charges are permitted by the Iowa Code. Funds discussed in rules 281—98.74(283A,298A) through 281—98.77(298A) are enterprise funds. In addition, enterprise funds include those activities related to community service enterprises or enterprises that support the school curricular program. Community service enterprises are activities provided by the district for a fee to the general community or segment of the community that are not in the PERL or library funds such as public libraries, community pool, community wellness center, and community or adult education. Enterprises that support the school program include activities such as a student farm, greenhouse, cooperative purchasing, school stores, or major resale activities.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.79 to 98.81 Reserved.

281—98.82(298A) Internal service funds. Internal service funds are used to account for the financing of services provided within the district to provide goods or services to other funds, component units, or other governments on a cost-reimbursement basis. The use of an internal service fund is appropriate only for activities in which the agency, school district or area education agency is the predominant participant

in the activity. If the district or area education agency is not the primary user of the goods or services provided by the internal service fund, then the activity should be accounted for in an enterprise fund rather than an internal service fund. Internal service funds include self-insurance funds, flex-benefit (cafeteria) plan funds, print shops, health reimbursement arrangements (HRAs), central warehousing and purchasing, and central data processing.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.83 to 98.91 Reserved.

281—98.92(257,279,298A,565) Private purpose trust funds. Private purpose trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are not irrevocable trusts and are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and therefore cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. Scholarship trust funds are an example of private purpose trust funds. If a school district has more than one scholarship trust, the school district will use project codes in accordance with Uniform Financial Accounting for Iowa School Districts and Area Education Agencies to separately account for the trusts. The district or area education agency will not transfer its own resources to a private purpose trust fund.

98.92(1) Sources of revenue in private purpose trust funds. Sources of revenue in the private purpose trust fund include donations of cash, investment instruments, property, and interest on investments held.

98.92(2) Appropriate uses of private purpose trust funds. Appropriate expenditures in the private purpose trust fund include those that are consistent with the terms of the agreement or are for the benefit of a private purpose other than the school district. None of the expenditures will be for the benefit of the school district's programs.

98.92(3) Inappropriate uses of private purpose trust funds. Inappropriate expenditures in the private purpose trust fund include any expenditure that is not consistent with the terms of the agreement, not legal to a school district, or that benefits the school district's programs.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.93(298A) Other trust funds. Trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. The school district or area education agency shall not transfer its own resources to a trust fund. Other trust funds may include but not be limited to pension trust funds and investment trust funds. Pension trust funds are used to account for resources that are required to be held in trust for members and beneficiaries of defined benefit pension plans, defined contribution plans, other postemployment benefit plans, or other benefit plans. Typically, these pension trust funds are used to account for local pension and other employee benefit funds that are provided by a school district in lieu of or in addition to any state retirement system. Investment trust funds are used to account for the external portion (i.e., the portion that does not belong to the school district) of investment pools operated by the school district.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.94 to 98.100 Reserved.

281—98.101(298A) Custodial funds. Custodial funds are used to account for funds that are held in a custodial capacity by the school district for individuals, private organizations, or other governments. Custodial funds may include moneys collected for another government, a grant consortium when the school district serves as fiscal agent for the other school districts but has no managerial responsibilities,

or funds for a teacher or a parent-teacher organization that has its own federal identification number (FIN). In a custodial fund, the school district or area education agency merely renders a service as a custodian of the assets for the organization owning the assets and the school district or area education agency is not an owner. Custodial funds typically involve only the receipt, temporary investment and remittance of assets to their rightful owners.

98.101(1) *Sources of receipts in custodial funds.* Sources of receipts in custodial funds include temporary receipts of cash, investment instruments, property, and interest on investments held.

98.101(2) *Appropriate uses of custodial funds.* Appropriate disbursements from a custodial fund depend on the nature of the rightful owners' conditions or the responsibilities of the custodian. Typically, disbursement will involve remittance of assets to their rightful owners or to a third party on behalf and at the request of the rightful owners. The school district cannot disburse more funds at any point in time than it has received from the rightful owner.

98.101(3) *Inappropriate uses of custodial funds.* Inappropriate disbursements from custodial funds include any disbursement that is not consistent with the terms of the agreement, is not legal to a school district, or exceeds the amount of funds that have been received from the rightful owner or on behalf of the rightful owner.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.102 to 98.110 Reserved.

281—98.111(24,29C,257,298A) Emergency levy fund. A school district may levy a tax for the emergency fund upon the approval of the state appeals board. Once the levy has been received, the district may request approval of the school budget review committee to transfer the funds to any other fund of the district for the purpose of meeting deficiencies in a fund arising within two years of a disaster as defined in Iowa Code section 29C.2(1).

98.111(1) *Sources of revenue in the emergency levy fund.* Sources of revenue for the emergency levy fund include a tax levy not to exceed \$0.27 per \$1,000 of assessed value of taxable property, and interest on those moneys.

98.111(2) *Appropriate uses of emergency levy fund.* Appropriate expenditures in the emergency levy fund include only transfers to other funds for the purpose of meeting deficiencies in a fund arising within two years of a disaster and upon the approval of the school budget review committee.

98.111(3) *Inappropriate uses of emergency levy fund.* Inappropriate expenditures in the emergency levy fund include any expenditures other than a transfer to another fund and any transfer not approved by the school budget review committee.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

281—98.112(275) Equalization levy fund. If necessary to equalize the division of liabilities and distribution of assets in a reorganization, merger, or dissolution, the board of a school district may provide for the levy of additional taxes upon the property of the former district so as to effect equalization pursuant to Iowa Code section 275.31. Once the levy has been received, the district will transfer the funds before the end of the fiscal year to the funds for which equalization was necessary and for which the taxes were levied.

98.112(1) *Sources of revenue for the equalization levy fund.* Sources of revenue for the equalization levy fund include a tax levy, pursuant to Iowa Code section 275.31, and interest on those moneys.

98.112(2) *Appropriate uses of the equalization levy fund.* Appropriate expenditures from the equalization levy fund are limited to transfers to the funds, in the same proportion, for which equalization was necessary and for which the taxes were levied.

98.112(3) *Inappropriate uses of the equalization levy fund.* Inappropriate uses of the equalization levy fund would include transfers to any fund for which equalization was not required or for which the equalization tax was not levied and any uses other than transfers.

[ARC 7802C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A, 300, 301, 423E, 423F, 565, and 670 and sections 11.6(1) “a”(1), 256C.4(1) “c,” 256D.4(3) and 284.13.

[Filed ARC 8054B (Notice ARC 7781B, IAB 5/20/09), IAB 8/26/09, effective 9/30/09]¹

[Editorial change: IAC Supplement 9/23/09]

[Editorial change: IAC Supplement 12/30/09]

[Filed ARC 9267B (Notice ARC 9017B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 0012C (Notice ARC 9793B, IAB 10/5/11), IAB 2/22/12, effective 3/28/12]²

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 0518C (Notice ARC 0387C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 1967C (Notice ARC 1881C, IAB 2/18/15), IAB 4/15/15, effective 5/20/15]

[Filed ARC 2310C (Notice ARC 2184C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]

[Filed ARC 3632C (Notice ARC 3270C, IAB 8/30/17), IAB 2/14/18, effective 3/21/18]

[Filed ARC 4298C (Notice ARC 4160C, IAB 12/5/18), IAB 2/13/19, effective 3/20/19]

[Filed ARC 4529C (Notice ARC 4404C, IAB 4/24/19), IAB 7/3/19, effective 8/7/19]

[Filed ARC 4813C (Notice ARC 4687C, IAB 10/9/19), IAB 12/18/19, effective 1/22/20]

[Filed ARC 4931C (Notice ARC 4817C, IAB 12/18/19), IAB 2/12/20, effective 3/18/20]

[Filed ARC 5650C (Notice ARC 5462C, IAB 2/24/21), IAB 6/2/21, effective 7/7/21]

[Filed ARC 6080C (Notice ARC 5877C, IAB 8/25/21), IAB 12/15/21, effective 1/19/22]

[Filed ARC 6724C (Notice ARC 6584C, IAB 10/5/22), IAB 12/14/22, effective 1/18/23]

[Filed ARC 7802C (Notice ARC 7598C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

¹ September 30, 2009, effective date of 281—98.12(257,299A) and 281—98.112(275) delayed 70 days by the Administrative Rules Review Committee at its meeting held September 8, 2009. At its meeting held December 8, 2009, the Committee voted to delay the effective date of 281—98.12(257,299A) until the adjournment of the 2010 Session of the General Assembly.

² March 28, 2012, effective date of 98.12 and 98.64(2) “e,” “h” delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 102
PROCEDURES FOR CHARGING AND INVESTIGATING INCIDENTS OF ABUSE
OF STUDENTS BY SCHOOL EMPLOYEES

281—102.1(280) Definitions.

“Abuse” may fall into either of the following categories:

1. “Physical abuse” means nonaccidental physical injury to the student as a result of the actions of a school employee.

2. “Sexual abuse” means any sexual offense as defined by Iowa Code chapter 709 or Iowa Code section 728.12(1). The term also encompasses acts of the school employee that encourage the student to engage in prostitution as defined by Iowa law, as well as inappropriate, intentional sexual behavior, or sexual harassment by the school employee toward a student.

“Board of educational examiners” means the board created in Iowa Code chapter 256, subchapter VII, part 3.

“Designated investigator” means the person or persons appointed by the board of directors of a public school district, or the authorities in control of a nonpublic school, at level one, to investigate allegations or reports of abuse of students by school employees and also refers to the appointed alternate.

“Incident” means an occurrence of behavior that meets the definition of physical or sexual abuse in these rules.

“Injury” occurs when evidence of it is still apparent at least 24 hours after the occurrence.

“Nonpublic school” means any school in which education is provided to a student, other than in a public school or in the home of the student.

“Preponderance of evidence” means reliable, credible evidence that is of greater weight than evidence offered in opposition to it.

“Public school” means any school directly supported in whole or in part by taxation.

“Reasonable force” means that force, and no more, that a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one’s life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.

“School employee” means a person who works for pay or as a volunteer under the direction and control of:

1. The board of directors or any administrator of a public school district.
2. The board or authorities in control of a nonpublic school.
3. The board of directors or administrator of an agency called upon by a school official to provide services in an educational capacity to students.
4. A residential institution, not currently covered by Iowa Code chapter 232, providing educational services.

School employees are of two classes: licensed and unlicensed. A licensed employee holds an Iowa teacher’s certificate issued by the board of educational examiners.

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

1. Submission to the conduct is made either implicitly or explicitly a term or condition of the student’s education or benefits;
2. Submission to or rejection of the conduct is used as the basis for academic decisions affecting that student; or
3. The conduct has the purpose or effect of substantially interfering with a student’s academic performance by creating an objectively intimidating, hostile, or offensive education environment.

“Student” means a person enrolled in a public or nonpublic school or a prekindergarten program in a public or nonpublic school established under Iowa law, a child enrolled in a day care program operated by a public school or merged area school under Iowa Code section 279.49, or a resident between the ages of 5 and 21 of a state facility providing incidental formal education.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.2(280) Jurisdiction. To constitute a violation of these rules, acts of the school employee must be alleged to have occurred on school grounds, on school time, on a school-sponsored activity, or in a school-related context. To be investigable, the written report is to include basic information showing that the student allegedly abused is or was a student at the time of the incident, that the alleged act of the school employee resulted in injury or otherwise meets the definition of abuse in these rules, and that the person responsible for the act is currently a school employee.

If the report is not investigable due to the absence of any of the jurisdictional facts, the level-one investigator will dismiss the complaint as lacking jurisdiction and notify the person filing the report of abuse of the options remaining as listed in paragraph 102.10(1) "i." The dismissal of a report of abuse for lack of jurisdiction does not bar school officials from further forms of investigation and disciplinary action.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.3 Reserved.

281—102.4(280) Exceptions.

102.4(1) The following do not constitute physical abuse, and no school employee is prohibited from:

a. Using reasonable and necessary force, not designed or intended to cause pain:

- (1) To quell a disturbance or prevent an act that threatens physical harm to any person.
- (2) To obtain possession of a weapon or other dangerous object within a pupil's control.
- (3) For the purposes of self-defense or defense of others as provided for in Iowa Code section 704.3.
- (4) For the protection of property as provided for in Iowa Code section 704.4 or 704.5.
- (5) To remove a disruptive pupil from class, or any area of school premises or from school-sponsored activities off school premises.

(6) To prevent a student from the self-infliction of harm.

(7) To protect the safety of others.

b. Using incidental, minor, or reasonable physical contact to maintain order and control.

102.4(2) In determining the reasonableness of the contact or force used, the following factors will be considered:

a. The nature of the misconduct of the student, if any, precipitating the physical contact by the school employee.

b. The size and physical condition of the student.

c. The instrumentality used in making the physical contact.

d. The motivation of the school employee in initiating the physical contact.

e. The extent of injury to the student resulting from the physical contact.

102.4(3) The provisions of this rule apply only at the level-two stage of any investigation and will not be considered by a level-one investigator.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.5(280) Duties of school authorities. The board of directors of a public school district and the authorities in control of a nonpublic school shall:

102.5(1) Annually identify at least one designated investigator and alternate investigator at an open public meeting.

102.5(2) Adopt written procedures that establish persons to whom the school authorities will delegate a second level of investigation beyond the level-one procedures specifically described in these rules, including law enforcement authorities or the county attorney's office, personnel of the local office of the department of health and human services, or private parties experienced and knowledgeable in the area of abuse investigation. The second-level investigator is not to be a school employee and is considered an independent contractor if remunerated for services rendered. The second-level investigator is to be made aware of any request under this rule and be offered an opportunity to decline the request, with reasons given.

The adopted procedures are to conform to these rules and include provisions for the safety of a student when, in the opinion of the investigator, the student would be placed in imminent danger if

continued contact is permitted between the school employee and the student. These provisions will include the options of:

- a. Temporary removal of the student from contact with the school employee.
- b. Temporary removal of the school employee from service.
- c. Any other appropriate action permissible under Iowa law to ensure the student's safety.

The adopted written procedures will include a statement that the investigators appointed and retained under this chapter have access to any educational records of the allegedly abused student and access to the student for purposes of interviewing and investigating the allegation.

102.5(3) Annually publish the names or positions and telephone numbers or other contact information of the designated investigator and alternate:

- a. In the student handbook,
- b. In a local newspaper of general circulation, and
- c. Prominently post the same information in all buildings operated by the school authorities.

102.5(4) Arrange for in-service training for the designated investigator and alternate. Initial training should be undertaken within six months of appointing a level-one investigator or alternate. Follow-up training should be undertaken at least once every five years.

102.5(5) Place on administrative leave a school employee who is the subject of an investigation under this chapter of an alleged incident of physical or sexual abuse, once the level-one investigator has determined that the written complaint is investigable under rule 281—102.3(280).

102.5(6) Report to the board of educational examiners the results of an investigation that finds that the school employee's conduct constitutes a crime.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.6(280) Filing of a report.

102.6(1) *Who may file.* Any person who has knowledge of an incident of abuse of a student committed by a school employee may file a report with the designated investigator.

102.6(2) *Content of report.* The report is to be in writing, signed, and, if signed by a minor, witnessed by a person of majority age and contain the following information:

- a. The full name, address, and telephone number of the person filing.
- b. The full name, age, address, telephone number, and attendance center of the student.
- c. The name and place of employment of the school employee(s) or agents who allegedly committed the abuse.
- d. A concise statement of the facts surrounding the incident, including date, time, and place of occurrence, if known.
- e. A list of possible witnesses by name, if known.
- f. Names and locations of any and all persons who examined, counseled or treated the student for the alleged abuse, including the dates on which those services were provided, if known.

102.6(3) *Incomplete reports.* The designated investigator shall aid parties requesting assistance in completing the report. An incomplete report will not be rejected unless a reasonable person would conclude that the missing information that is unable to be provided by the reporter would render investigation futile or impossible. An unsigned (anonymous) or unwitnessed report may be investigated, but the designated investigator then has no duty to report findings and conclusions to the reporter.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.7(280) Receipt of report. Any school employee receiving a report of alleged abuse of a student by a school employee shall immediately give the report to the designated investigator or alternate and not reveal the existence or content of the report to any other person.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.8(280) Duties of designated investigator—physical abuse allegations.

102.8(1) Upon receipt of the report, the designated investigator will make and provide a copy of the report to the person filing, to the student's parent or guardian if different from the person filing and to the supervisor of the employee named in the report. The school employee named in the report is to receive a

copy of the report at the time the employee is initially interviewed by any investigator. However, if this action would conflict with the terms of a contractual agreement between the employer and employee, the terms of the contract control.

102.8(2) Within five school days of receipt of a report of physical abuse, the designated investigator will conduct and complete an informal investigation after reviewing the report to determine that the allegations, if true, support the exercise of jurisdiction pursuant to rule 281—102.3(280).

102.8(3) If, in the investigator's opinion, the magnitude of the allegations in the report suggests immediate and professional investigation is necessary, the designated investigator may temporarily defer the level-one investigation. In cases of deferred investigation, the investigator shall contact appropriate law enforcement officials, the student's parent or guardian and the person filing the report, if different from the student's parent or guardian, documenting in writing the action taken.

102.8(4) The investigator shall interview the allegedly abused student, any witnesses or persons who may have knowledge of the circumstances contained in the report, and the school employee named in the report. The investigator will exercise prudent discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the investigator shall maintain the confidentiality of the report.

102.8(5) The designated investigator's role is not to determine the guilt or innocence of the school employee, the applicability of the exceptions or reasonableness of the contact or force listed in rule 281—102.4(280). The designated investigator shall determine, by a preponderance of the evidence, whether it is likely that an incident took place between the student and the school employee. However, if the complaint has been withdrawn, the allegation recanted, or the employee has resigned, admitted the violation, or agreed to relinquish the employee's teacher's certificate or license, the designated investigator may, but need not, conclude the investigation at level one. The designated investigator will follow the applicable provisions of paragraphs 102.11(2) "b" and "c" when resolution occurs at level one.

The level-two investigator appointed, contracted, requested or retained under subrule 102.5(2), when called upon for further investigation, will consider the applicability of the exceptions listed in rule 281—102.4(280) and the reasonableness of the contact or force used under subrule 102.4(2) in reaching conclusions as to the occurrence of physical abuse as defined by these rules.

102.8(6) Within 15 calendar days of receipt of the report, the designated investigator will complete a written investigative report, unless investigation was temporarily deferred.
[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.9(280) Duties of designated investigator—sexual abuse allegations.

102.9(1) Upon receipt of the report, the designated investigator will make and provide a copy of the report to the person filing the report, to the student's parent or guardian if different from the person filing the report, and to the supervisor of the employee named in the report. The school employee named in the report shall receive a copy of the report at the time the employee is initially interviewed by any investigator. However, if this action would conflict with the terms of a contractual agreement between the employer and employee, the terms of the contract control. The designated investigator shall not interview the school employee named in a report of sexual abuse until after a determination that jurisdiction exists is made, the allegedly abused student has been interviewed, and a determination is made that the investigation will not be deferred under subrule 102.9(5).

102.9(2) Upon receipt of a report of sexual abuse or other notice of an allegation of sexual abuse, the designated investigator shall review the facts alleged to determine that the allegations, if true, support the exercise of jurisdiction pursuant to rule 281—102.3(280).

102.9(3) The investigator shall notify the parent, guardian, or legal custodian of a child in prekindergarten through grade six of the date and time of the interview and of the right to be present or to see and hear the interview or to send a representative in the parent's, guardian's, or legal custodian's place. The investigator shall interview the allegedly abused student as soon as possible, but in no case later than five days from the receipt of a report or notice of the allegation of sexual abuse. The investigator may record the interview electronically.

The investigator shall exercise prudent discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the investigator shall maintain the confidentiality of the report.

102.9(4) The designated investigator's role is not to determine the guilt or innocence of the school employee. The designated investigator shall determine, by a preponderance of the evidence and based upon the investigator's training and experience and the credibility of the student, whether it is likely that an incident took place between the student and the school employee. However, if the complaint has been withdrawn, the allegation recanted, or the employee has resigned, admitted the violation, or agreed to relinquish the employee's teacher's certificate or license, the designated investigator may, but need not, conclude the investigation at level one. The designated investigator will follow the applicable provisions of paragraphs 102.11(2) "b" and "c" when resolution occurs at level one.

102.9(5) If, in the investigator's opinion, it is likely that an incident in the nature of sexual abuse as defined by Iowa Code chapter 709 or section 728.12(1) took place, the investigator shall temporarily defer further level-one investigation. In cases of deferred investigation, the investigator shall immediately contact appropriate law enforcement officials, notifying the student's parent or guardian, and the person filing the report, if different from the student's parent or guardian, of the action taken.

If, in the investigator's opinion, an incident occurred that would not constitute sexual abuse as defined in Iowa Code chapter 709 or sexual exploitation as defined by Iowa Code section 728.12(1), but that was in the nature of inappropriate, intentional sexual behavior by the school employee, further investigation is warranted. The investigator may proceed to interview the school employee named in the report. Prior to interviewing any collateral sources who may have knowledge of the circumstance contained in the report, the investigator will provide notice of the impending interview of student witnesses who are in prekindergarten through grade six, to their parent, guardian, or legal custodian, and may provide notice to the parent or guardian of older students, prior to interviewing those students.

If, in the investigator's opinion, the allegation of sexual abuse is unfounded either because the conduct did not occur or the conduct did not meet the definition of abuse in these rules, further investigation is not warranted. The investigator shall notify the student's parent or guardian, the person filing the report, if different from the student's parent or guardian, and the school employee named in the report of this conclusion in a written investigative report.

102.9(6) Within 15 calendar days of receipt of the report or notice of alleged sexual abuse, the designated investigator will complete a written investigation report unless the investigation was temporarily deferred.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.10(280) Content of investigative report.

102.10(1) The written investigative report is to include:

- a. The name, age, address, and attendance center of the student named in the report.
- b. The name and address of the student's parent or guardian and the name and address of the person filing the report, if different from the student's parent or guardian.
- c. The name and work address of the school employee named in the report as allegedly responsible for the abuse of the student.
- d. An identification of the nature, extent, and cause, if known, of any injuries or abuse to the student named in the report.
- e. A general review of the investigation.
- f. Any actions taken for the protection and safety of the student.
- g. A statement that, in the investigator's opinion, the allegations in the report are either:
 - (1) Unfounded. (It is not likely that an incident, as defined in these rules, took place), or
 - (2) Founded. (It is likely that an incident took place.)
- h. The disposition or current status of the investigation.
- i. A listing of the options available to the parents or guardian of the student to pursue the allegations. These options include:
 - (1) Contacting law enforcement.

- (2) Contacting private counsel for the purpose of filing a civil suit or complaint.
- (3) Filing a complaint with the board of educational examiners if the school employee is certificated.

102.10(2) The investigator shall retain the original and provide a copy of the investigative report to the school employee named in the report, the school employee's supervisor and the named student's parent or guardian. The person filing the report, if not the student's parent or guardian, shall be notified only that the level-one investigation has been concluded and of the disposition or anticipated disposition of the case.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.11(280) Founded reports—designated investigator's duties.

102.11(1) The investigator shall notify law enforcement authorities in founded cases of serious physical abuse and in any founded case of sexual abuse under Iowa Code chapter 709 or sexual exploitation under Iowa Code section 728.12(1). In founded cases of less serious physical incidents or sexual incidents not in the nature of statutory sexual abuse or exploitation as defined by Iowa law, the investigator shall arrange for the level-two investigator to carry out a professional investigation unless the level-one investigation has resulted in a final disposition of the investigation. In addition, the designated investigator shall give a copy of the investigative report to the employee's supervisor and document all action taken.

102.11(2) Upon receipt of the level-two investigator's report under rule 281—102.12(280) or upon resolution of the investigation at level one, the designated investigator will:

a. Forward copies of the level-two investigator's report to the student's parent or guardian, the school employee named in the complaint, and the school employee's supervisor; notify the person filing the report, if different from the student's parent or guardian, of the disposition of the case or current status of the investigation;

b. File a complaint against the school employee who has been found to have physically or sexually abused a student, if that employee holds a teaching certificate, coaching authorization, or practitioner license, with the board on behalf of the school or district by obtaining the superintendent's signature on the complaint in cases where the level-two investigator or law enforcement officials have concluded abuse occurred as defined in these rules or where the employee has admitted the violation or agreed to surrender the employee's certificate or license. The designated investigator has discretion to file a complaint with the board in situations where the employee has resigned as a result of the allegation or investigation but has not admitted that a violation occurred. In the event an employee holding a school bus driver permit has been found to have physically or sexually abused a student, the designated investigator shall file a written complaint with the school transportation consultant at the department of education; the designated investigator shall file a written complaint with the local school board in founded cases involving other nonlicensed school employees; and

c. Arrange for counseling services for the student on request of the student, or the student's parent or guardian.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.12(280) Level-two investigator's duties.

102.12(1) Upon referral by the designated investigator, the level-two investigator appointed, contracted, requested or retained under subrule 102.5(2) shall review the report of abuse and the designated investigator's report, if any, promptly conduct further investigation and create a written narrative report. The level-two investigator's report shall state:

a. Conclusions as to the occurrence of the alleged incident; and

b. Conclusions as to the applicability of the exceptions to physical abuse listed in rule 281—102.4(280); or

c. Conclusions as to the nature of the sexual abuse, if any; and

d. Recommendations regarding the need for further investigation.

102.12(2) The written report shall be delivered to the designated investigator as soon as practicable.

102.12(3) The level-two investigator shall exercise prudent discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the level-two investigator shall maintain the confidentiality of the report.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.13(280) Retention of records.

102.13(1) Any record created by an investigation will be handled according to formally adopted or bargained policies on the maintenance of personnel or other confidential records. Notes, tapes, memoranda, and related materials compiled in the investigation will be retained by the public or nonpublic school for a minimum of two years.

102.13(2) Unfounded reports shall not be placed in an employee's personnel file. If a report is founded at level one and unfounded at level two, the founded report from the level-one investigator shall be removed immediately upon receipt of an unfounded report from the level-two investigator.

[ARC 7803C, IAB 4/17/24, effective 5/22/24]

281—102.14(280) Substantial compliance. Because investigative procedures seldom allow for rigid observance of the protocol, substantial compliance with the rules is required with the overriding goal of reaching a fair and unbiased resolution of the complaint.

These rules are intended to implement Iowa Code section 280.17.

[Filed 2/10/89, Notice 12/28/88—published 3/8/89, effective 7/1/89]

[Filed 9/15/89, Notice 7/26/89—published 10/4/89, effective 11/8/89]

[Filed 11/16/89, Notice 10/4/89—published 12/13/89, effective 1/17/90]

[Filed 8/14/90, Notice 6/27/90—published 9/5/90, effective 10/10/90]

[Filed 11/19/92, Notice 9/30/92—published 12/9/92, effective 1/13/93]¹

[Filed 9/13/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]

[Filed ARC 9377B (Notice ARC 9268B, IAB 12/15/10), IAB 2/23/11, effective 3/30/11]

[Filed ARC 9905B (Notice ARC 9794B, IAB 10/5/11), IAB 12/14/11, effective 1/18/12]

[Filed ARC 7803C (Notice ARC 7599C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

¹ Effective date of the following delayed seventy days by the Administrative Rules Review Committee at its meeting held January 5, 1993: 102.2(280), definitions of "Abuse," "Board of educational examiners," "Incident," "Injury," "Sexual harassment"; 102.3(280); 102.4(2), introductory paragraph; 102.8(5); 102.9(1), first sentence; 102.9(3), introductory paragraph; 102.9(4); 102.9(5), first and second unnumbered paragraphs; 102.10(280)*7"; 102.10(280), last paragraph; 102.11(280)*2"; 102.12(280), introductory paragraph; new 102.14(280); delay lifted by the Committee on February 8, 1993, effective February 9, 1993.

CHAPTER 103
CORPORAL PUNISHMENT, PHYSICAL RESTRAINT, SECLUSION, AND OTHER
PHYSICAL CONTACT WITH STUDENTS

281—103.1(256B,280) Purpose and objectives. The purpose of this chapter is to provide uniform definitions and policies for public school districts, accredited nonpublic schools, and area education agencies regarding the application of physical contact or force to enrolled students. These rules clarify that corporal punishment, prone restraint, and mechanical restraint are prohibited; explain the parameters and protocols for the use of physical restraint and seclusion; and describe other limits on physical contact with students. The applicability of this chapter to physical restraint, seclusion, or behavior management interventions does not depend on the terminology employed by the organization to describe the activity or space. These rules are intended to promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors; increase meaningful instructional time for all students; ensure that seclusion and physical restraint are used only in specified circumstances and are subject to assessment, monitoring, documentation, and reporting by trained employees; and give clear guidance on whether a disciplinary or behavioral management technique is prohibited or may be used.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.2(256B,280) Definitions. For the purposes of this chapter:

“Bodily injury” means physical pain, illness, or any impairment of physical condition.

“Corporal punishment” means the intentional physical punishment of a student. “Corporal punishment” includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.

“Debriefings” means meetings to collaboratively examine and determine what caused an incident or incidents resulting in the use of physical restraints or seclusion, how the incident or the use of physical restraints or seclusion or both could have been avoided and how future incidents could be avoided, and to plan for and implement positive and preventative supports. The debriefing process is intended to improve future outcomes by reducing the likelihood of future problem behavior and the subsequent use of physical restraint or seclusion.

“Mechanical restraint” means the use of a device as a means of restricting a student’s freedom of movement. “Mechanical restraint” does not mean a device used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a device was designed and, if applicable, prescribed, including restraints for medical immobilization, adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports, and vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

“Parent” means an individual included in the definition of “parent” in rule 281—41.30(256B,34CFR300), and also includes an individual authorized to make decisions for the child pursuant to a power of attorney for temporary delegation of custody or for making educational decisions.

“Physical restraint” means a personal restriction that immobilizes or reduces the ability of a child to move the child’s arms, legs, body, or head freely. “Physical restraint” does not mean a technique used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a technique was designed and, if applicable, prescribed. “Physical restraint” does not include instructional strategies, such as physically guiding a student during an educational task, hand-shaking, hugging, or other nondisciplinary physical contact.

“Prone restraint” means any restraint in which the child is held face down on the floor.

“Reasonable and necessary force” means that force, and no more, that a reasonable person would judge to be necessary under the circumstances that existed at the time, that is not intended to cause pain,

and that does not exceed the degree or duration required to accomplish the purposes set forth in rule 281—103.5(256B,280).

“*School*” includes public school districts, accredited nonpublic schools, and area education agencies.

“*Seclusion*” means the involuntary confinement of a child in a seclusion room or area from which the child is prevented or prohibited from leaving; however, preventing a child from leaving a classroom or school building is not considered seclusion. “*Seclusion*” does not include instances when a school employee is present within the room and providing services to the child, such as crisis intervention or instruction.

“*Seclusion room*” means a room, area, or enclosure, whether within or outside the classroom, used for seclusion.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.3(256B,280) Ban on corporal punishment and prone and mechanical restraints. An employee shall not inflict, or cause to be inflicted, corporal punishment upon a student or use prone restraints or mechanical restraints upon a student.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.4(256B,280) Activities that are not considered corporal punishment. Corporal punishment does not include the following:

1. Verbal recrimination or chastisement directed toward a student;
2. Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;
3. Actions consistent with and included in an individualized education program (IEP) developed under the Individuals with Disabilities Education Act, as reauthorized through February 7, 2024, Iowa Code chapter 256B, and 281—Chapter 41; a behavior intervention plan (BIP); an individual health plan (IHP); or a safety plan. However, under no circumstance may an IEP, BIP, IHP, or safety plan violate the provisions of this chapter;
4. Reasonable periods of detention, not in excess of school hours, or brief periods of detention before or after school, in a seat, classroom, or other part of a school facility;
5. Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of a school employing or utilizing the services of the employee.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.5(256B,280) Use of reasonable and necessary force.

103.5(1) Notwithstanding the ban on corporal punishment in rule 281—103.3(256B,280), no employee subject to these rules is prohibited from:

- a. Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the purposes listed in Iowa Code section 280.21(2).
- b. Using incidental, minor, or reasonable physical contact to maintain order and control.

103.5(2) An employee subject to these rules is not privileged to use unreasonable force to accomplish any of the purposes listed above.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.6(256B,280) Reasonable force.

103.6(1) In determining the reasonableness of the physical force used by a school employee, the following factors will be applied:

- a. The size and physical, mental, and psychological condition of the student;
- b. The nature of the student’s behavior or misconduct resulting in the use of physical force;
- c. The instrumentality used in applying the physical force;
- d. The extent and nature of resulting injury to the student, if any, including mental and psychological injury;
- e. The motivation of the school employee using the physical force.

103.6(2) Reasonable physical force, privileged at its inception, does not lose its privileged status by reasons of an injury to the student, not reasonably foreseeable or otherwise caused by intervening acts of another, including the student.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.7(256B,280) Reasonable and necessary force—use of physical restraint or seclusion.

103.7(1) Physical restraint or seclusion is reasonable and necessary only:

- a. To prevent or terminate an imminent threat of bodily injury to the student or others; or
- b. To prevent serious damage to property of significant monetary value or significant nonmonetary value or importance; or
- c. When the student's actions seriously disrupt the learning environment or when physical restraint or seclusion is necessary to ensure the safety of the student and others; and
- d. When less restrictive alternatives to seclusion or physical restraint would not be effective, would not be feasible under the circumstances, or have failed in preventing or terminating the imminent threat or behavior; and
- e. When the physical restraint or seclusion complies with all the rules of this chapter.

103.7(2) If seclusion or physical restraint is utilized, the following provisions apply:

- a. The seclusion or physical restraint must be imposed by an employee who:
 - (1) Is trained in accordance with rule 281—103.8(256B,280); or
 - (2) Is otherwise available and a trained employee is not immediately available due to the unforeseeable nature of the occurrence.
- b. A school will attempt to notify the student's parent using the school's emergency contact system as soon as practicable after the situation is under control, but no later than one hour or the end of the school day, whichever occurs first.
- c. The seclusion or physical restraint must only be used for as long as is necessary, based on research and evidence, to allow the student to regain control of the student's behavior to the point that the threat or behavior necessitating the use of the seclusion or physical restraint has ended, or when a medical condition occurs that puts the student at risk of harm.

Unless otherwise provided for in the student's written, approved IEP, BIP, IHP, or safety plan, if the seclusion or physical restraint continues for more than 15 minutes:

- (1) The student shall be provided with any necessary breaks to attend to personal and bodily needs, unless doing so would endanger the child or others.
- (2) An employee shall obtain approval from an administrator or administrator's designee to continue the seclusion or physical restraint beyond 15 minutes. After the initial approval, an employee must obtain additional approval every 30 minutes thereafter for the continuation of the seclusion or physical restraint. Approval will be documented in accordance with rule 281—103.8(256B,280).
- (3) The student's parent and the school may agree to more frequent notifications than is provided by this subrule.
- (4) Schools and employees will document and explain in writing, as provided by subrule 103.8(2), the reasons why it was not possible for them to obtain approval, notify parents, or take action under paragraphs 103.7(2) "b" and "c" within the prescribed time limits.
- (5) Schools and employees who initiate and then end the use of nonapproved restraints must document and explain in writing the reasons why they had no other option but to use this type of behavioral intervention. This subparagraph is not intended to excuse or condone the use of nonapproved restraints.

d. The area of seclusion shall be a designated seclusion room that complies with the seclusion room requirements of rule 281—103.9(256B,280), unless the nature of the occurrence makes the use of the designated seclusion room impossible, clearly impractical, or clearly contrary to the safety of the student, others, or both; in that event, the school must document and explain in writing the reasons why a designated seclusion room was not used.

e. An employee must continually visually monitor the student for the duration of the seclusion or physical restraint.

- f.* An employee shall not use any physical restraint that obstructs the airway of the student.
- g.* If an employee restrains a student who uses sign language or an augmentative mode of communication as the student's primary mode of communication, the student shall be permitted to have the student's hands free of physical restraint, unless doing so is not feasible in view of the threat posed.
- h.* Seclusion or physical restraint shall not be used:
 - (1) As punishment or discipline;
 - (2) To force compliance or to retaliate;
 - (3) As a substitute for appropriate educational or behavioral support;
 - (4) To prevent property damage except as described in paragraph 103.7(1) "b";
 - (5) As a routine school safety measure; or
 - (6) As a convenience to staff.

103.7(3) An employee must document the use of the seclusion or physical restraint in accordance with rule 281—103.8(256B,280).

103.7(4) Nothing in this rule will be construed as limiting or eliminating any immunity conferred by Iowa Code section 280.21, rule 281—103.11(256B,280), or any other provision of law.

103.7(5) An agency covered by this chapter will investigate any complaint or allegation that one or more of its employees violated one or more provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency will take appropriate corrective action. If any allegation involves a specific student, the agency will transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any ordered corrective action.

103.7(6) If a child's IEP, BIP, IHP, or safety plan includes either or both physical restraint or seclusion measures, those measures will be individualized to the child; described with specificity in the child's IEP, BIP, IHP, or safety plan; and be reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances.

103.7(7) These rules are binding whether or not a parent consents to the use of physical restraint or seclusion for the child.

103.7(8) If any alleged violation of this chapter is also an allegation of "abuse" as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 are applicable.

103.7(9) Schools must provide a copy of this chapter and any school-adopted or school-used related policies, procedures and training materials to any individual who is not an employee but whose duties could require the individual to participate in or be present when physical restraints are or seclusion is being used. Schools must invite these individuals to participate in training offered to employees pursuant to this chapter.

103.7(10) The provisions of Iowa Code section 280.21(3) and 280.21(4) apply to proceedings under this chapter.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.8(256B,280) Training, documentation, debriefing, and reporting requirements.

103.8(1) Training. An employee must receive training prior to using any form of physical restraint or seclusion. Training will cover the following topics:

- a.* The rules of this chapter;
- b.* The school's specific policies and procedures regarding the rules of this chapter;
- c.* Student and staff debriefing requirements;
- d.* Positive behavior interventions and supports, and evidence-based approaches to student discipline and classroom management;
- e.* Research-based alternatives to physical restraint and seclusion;
- f.* Crisis prevention, crisis intervention, and crisis de-escalation techniques;
- g.* Duties and responsibilities of school resource officers and other responders, and the techniques, strategies and procedures used by responders; and
- h.* Safe and effective use of physical restraint and seclusion.

103.8(2) Documentation and reporting. Schools must maintain documentation for each occurrence of physical restraint and seclusion. Documentation will contain at least the following information:

- a. The name of the student;
- b. The names and job titles of employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints, including the administrator or individual who approved continuation of the seclusion or physical restraint pursuant to subparagraph 103.7(2)“c”(2);
- c. The date of the occurrence;
- d. The beginning and ending times of the occurrence;
- e. The date the employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints last completed training necessary under subrule 103.8(1);
- f. A description of the actions of the student before, during, and after the seclusion or physical restraint;
- g. A description of the actions of the employee(s) involved before, during, and after the seclusion or physical restraint, including the use of a nonapproved restraint (subparagraph 103.7(2)“c”(5)) or the use of other than a designated seclusion room (paragraph 103.7(2)“d”);
- h. Documentation of approvals for continuation of the seclusion or physical restraint period generated in accordance with subrule 103.7(2), including why it was not possible to obtain approval;
- i. A description of the less restrictive means attempted as alternatives to seclusion or physical restraint;
- j. A description of any injuries, whether to the student or others, and any property damage;
- k. A description of future approaches to address the student’s behavior, including any consequences or disciplinary actions that may be imposed on the student; and
- l. The time and manner by which the school notified the student’s parent of the use of physical restraint or seclusion, including why it was not possible to attempt to give notice within the time specified by paragraph 103.7(2)“b.”

Schools must provide the student’s parent with a written copy of the report by the end of the third school day following the occurrence. The report will be accompanied by a letter inviting the parent to participate in a debriefing meeting, if necessary under subrule 103.8(3), to be held within five school days of the day the report and letter are mailed to or provided to the parent. The letter will include the date, time and place of the meeting and the names and titles of employees and other individuals who will attend the meeting. The parent may elect to receive the report and the letter via electronic mail or facsimile or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the letter and report to the parent by first-class mail, postage prepaid, postmarked by end of the third school day after the occurrence.

103.8(3) Debriefing.

a. Schools must hold a debriefing meeting as soon as practicable whenever provided by paragraph 103.8(3)“f,” but within five school days of the day the report and letter are mailed or provided to the parent, unless a parent who wants to participate personally or through a representative asks for an extension of time, or the parent and school agree to an alternate date and time. The student may attend the meeting with the parent’s consent. The parent may elect to be accompanied by other individuals or representatives. The meeting must include employees who administered the physical restraint or seclusion, an administrator or employee who was not involved in the occurrence, the individual or administrator who approved continuation of the physical restraint or seclusion, other relevant personnel designated by the school (such as principal, counselor, classroom teacher, special education teacher), and, if indicated by the student’s behavior in the instances prompting the debriefing, an expert in behavioral health, mental health, or another appropriate discipline. The meeting, and the debriefing report that is to be provided to the parent after the meeting, will include the following information and subjects:

- (1) The date and location of the meeting, and the names and titles of the participants;

- (2) The documentation and report completed in compliance with subrule 103.8(2);
- (3) A review of the student's BIP, IHP, safety plan, and IEP as applicable;
- (4) Identification of patterns of behavior and proportionate response, if any, in the student and the employees involved;
- (5) Determination of possible alternative responses to the incident/less restrictive means, if any;
- (6) Identification of additional resources that could facilitate those alternative responses in the future;
- (7) Planning for follow-up actions, such as behavior assessments, revisions of school intervention plans, medical consultations, and reintroduction plans.

b. Schools must complete the debriefing report and provide a copy of the report to the parent of the student within three school days of the debriefing meeting. The parent may elect to receive the report via electronic mail, or facsimile, or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the debriefing report to the parent by first-class mail, postage prepaid, postmarked no later than three school days after the debriefing meeting.

c. If the debriefing session results in a recommendation that a child might be eligible for a BIP, IHP, safety plan, or IEP, the public agencies will promptly determine the child's eligibility in accordance with the procedures for determining eligibility, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

d. Any recommended change to a student's BIP, IHP, safety plan, or IEP, or a student's educational placement, will be made in accordance with the procedures for amending said plan or changing said placement, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

e. Nothing in this subrule will be construed to require employers to include information about employees that would be legally protected personnel information, including employee disciplinary information under Iowa Code chapters 279 and 284, or to allow discussion of that personnel information, in debriefing meetings.

f. For purposes of this subrule, a debriefing session is necessary:

- (1) Upon the first instance of seclusion or physical restraint during a school year;
- (2) Whenever any personal injury occurs as a part of the use of seclusion or physical restraint;
- (3) Whenever a reasonable educator would determine a debriefing session is necessary;
- (4) Whenever suggested by a student's IEP team (if any);
- (5) Whenever agreed by the parent and the school officials.

However, in any case a debriefing session will occur after seven instances of seclusion or physical restraint. Nothing in this paragraph will be construed to prevent a school from offering more debriefing meetings.

103.8(4) Confidentiality. Schools are governed by the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99, both as effective on February 7, 2024); Iowa Code chapter 22, "Examination of Public Records (Open Records)"; and other applicable federal and state laws, when taking action pursuant to this rule.

103.8(5) Reporting to department. Schools will report to the Iowa department of education, in a manner prescribed by the department, an annual count of all instances of seclusion or restraint, an annual count of the number of students who were subjected to seclusion or restraint, and any other data required for the department to implement the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, Public Law 114-95, as of February 7, 2024.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.9(256B,280) Seclusion room requirements. Schools must meet the following standards for the structural and physical requirements for rooms used for seclusion:

103.9(1) The room meets and complies with all applicable building, fire, safety, and health codes and standards and with the other provisions of this rule.

103.9(2) The dimensions of the room are of adequate width, length, and height to allow the student to move about and recline safely and comfortably, considering the age, size, and physical and mental

condition of the student being secluded. The interior of the room is to be no less than 56 square feet, and the distance between opposing walls is to be no less than 7 feet across.

103.9(3) The room is not isolated from school employees or the facility.

103.9(4) Any wall that is part of the room is part of the structural integrity of the room (not free-standing cells or portable units attached to the existing wall or floor).

103.9(5) The room provides a means of continuous visual and auditory monitoring of the student.

103.9(6) The room is adequately lighted with switches to control lighting located outside the room.

103.9(7) The room is adequately ventilated with switches to control fans or other ventilation devices located outside the room.

103.9(8) The room maintains a temperature within the normal human comfort range and consistent with the rest of the building with temperature controls located outside of the room.

103.9(9) The room is clean and free of objects and fixtures that could be potentially dangerous to a student, including protruding, exposed, or sharp objects, exposed pipes, electrical wiring, or other objects in the room that could be used by students to harm themselves or to climb up a wall.

103.9(10) The room contains no free-standing furniture.

103.9(11) The room is constructed of materials safe for its intended use, including wall and floor coverings designed to prevent injury to the student. Interior finish of the seclusion room will comply with the state and local building and fire codes and standards.

103.9(12) Doors will open outward. The door will not be fitted with a lock unless it releases automatically when not physically held in the locked position by personnel on the outside of the door and permits the door to be opened from the inside. Doors, when fully open, do not reduce the required corridor width by more than seven inches. Doors in any position do not reduce the required width by more than one-half.

103.9(13) The room is able to be opened from the inside immediately upon the release of a security mechanism held in place by constant human contact.

103.9(14) Windows, if any, are transparent and made of unbreakable or shatterproof glass or plastic.

103.9(15) By July 1, 2021, schools will consult with appropriate state and local building, fire, safety, and health officials to ensure the room complies with all applicable codes and standards (for example, heating, ventilation, lighting, accessibility, dimensions, access, entry and exit, fire suppression, etc.), and maintain documentation of such consultation and compliance and approval.

103.9(16) Assuming approval pursuant to subrule 103.9(15), a school may continue to use a room that otherwise complies with this rule but for subrule 103.9(2) for a period of five years from January 20, 2021, or whenever the portion of the school containing the room is renovated or remodeled, whichever occurs first.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

281—103.10(256B,280) Department responsibilities. The department will develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with these rules.

The director of the department will consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this rule.

[ARC 7804C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 280.21.

[Filed 10/12/90, Notice 9/5/90—published 10/31/90, effective 12/5/90¹]

[Filed 9/13/91, Notice 5/29/91—published 10/2/91, effective 11/6/91]

[Filed 9/11/08, Notice 6/18/08—published 10/8/08, effective 11/12/08]

[Filed ARC 9378B (Notice ARC 9146B, IAB 10/6/10), IAB 2/23/11, effective 3/30/11]

[Filed ARC 5332C (Notice ARC 5146C, IAB 8/26/20), IAB 12/16/20, effective 1/20/21]

[Filed ARC 7804C (Notice ARC 7600C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

- ¹ Effective date of 281—103.2(280), last 2 sentences, delayed until adjournment of the 1991 Session of the General Assembly by the Administrative Rules Review Committee at its November 13, 1990, meeting. The agency rescinded the last sentence, effective 11/6/91, IAB 10/2/91.

TITLE XVIII
EARLY CHILDHOOD
CHAPTER 120
EARLY ACCESS INTEGRATED SYSTEM OF
EARLY INTERVENTION SERVICES

DIVISION I
PURPOSE AND APPLICABILITY

281—120.1(34CFR303) Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services.

120.1(1) *Establishment of Early ACCESS Integrated System of Early Intervention Services.* This chapter establishes Iowa’s Early ACCESS Integrated System of Early Intervention Services, which is Iowa’s implementation of Part C of the Individuals with Disabilities Education Act.

120.1(2) *Purposes.* The purposes of this chapter are as follows:

a. Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

b. Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources (including public and private insurance coverage);

c. Enhance Iowa’s capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

d. Enhance the capacity of state and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care.

120.1(3) *Overall outcomes.* The overall intended outcome of Early ACCESS is to provide early intervention resources, supports, and services to eligible children and their families within a coordinated, integrated system. Early ACCESS is aimed at the following four outcomes:

a. Enhancing the development of eligible children;

b. Reducing educational costs to society by minimizing the need for special education and related services after such children reach school age;

c. Preparing eligible children for school entry; and

d. Enhancing the capacity of families to meet the unique needs of their eligible children.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.2(34CFR303) Applicability of this chapter. The provisions of this chapter apply to the Iowa department of education, as the state lead agency, the signatory agencies identified in subrule 120.39(15), and any early intervention service (EIS) provider that is part of the statewide system of early intervention, regardless of whether that EIS provider receives funds under Part C of the Act. The chapter applies to all children referred to the Part C program, including infants and toddlers with disabilities consistent with the definitions in rules 281—120.6(34CFR303) and 281—120.21(34CFR303), and their families. The provisions of this chapter do not apply to any child with a disability receiving a “free appropriate public education” or “FAPE” under 34 CFR Part 300.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.3(34CFR303) Applicable federal regulations.

120.3(1) *General.* The following regulations apply to this chapter:

a. The regulations at 34 CFR Part 303.

b. The Education Department General Administrative Regulations (EDGAR), including 34 CFR Parts 76 (except for §76.103), 77, 79, 80, 81, 82, 84, 85, and 86.

120.3(2) *References in EDGAR.* In applying EDGAR regulations cited in subrule 120.3(1), any reference to:

a. “State educational agency” means the Iowa department of education, the lead agency under this chapter; and

b. “Education records” or “records” means early intervention records.
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

DIVISION II
DEFINITIONS

281—120.4(34CFR303) Act. “Act” means the Individuals with Disabilities Education Act. Part B of the Act, 34 CFR Part 300, establishes special education for children with disabilities who are age three to the maximum age in Iowa Code section 256B.8. Part B of the Act includes early childhood special education under Section 619 of the Act. Part C of the Act, 34 CFR Part 303, establishes the infants and toddlers program for eligible individuals from birth to age three.
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.5(34CFR303) At-risk infant or toddler. “At-risk infant or toddler” means an individual under three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.6(34CFR303) Child. “Child” means an individual under the age of six and may include an “infant or toddler with a disability” as that term is defined in rule 281—120.21(34CFR303).
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.7(34CFR303) Consent.

120.7(1) Obtaining consent. “Consent” is obtained when all of the following conditions are satisfied:

a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent’s native language as defined in rule 281—120.25(34CFR303);

b. The parent understands and agrees in writing to the carrying out of the activity for which the parent’s consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and

c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

120.7(2) Revoking consent. If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.8(34CFR303) Council. “Council” means the Iowa council for Early ACCESS, which is the state interagency coordinating council that satisfies Division VIII of this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.9(34CFR303) Day. “Day” means calendar day, unless otherwise indicated.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.10(34CFR303) Developmental delay. “Developmental delay,” when used with respect to a child residing in a state, has the meaning given that term by the state under rule 281—120.111(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.11(34CFR303) Early intervention service program. “Early intervention service program” or “EIS program” means an entity designated by the lead agency for reporting under rules 281—120.700(34CFR303) through 281—120.702(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.12(34CFR303) Early intervention service provider.

120.12(1) General. “Early intervention service provider” or “EIS provider” means an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under Part C of the Act, whether or not the entity or individual receives federal funds under Part C of the Act, and may include, where appropriate, the lead agency and a public agency responsible for providing early intervention services to infants and toddlers with disabilities in the state under Part C of the Act.

120.12(2) Responsibilities. An EIS provider is responsible for:

a. Participating in the multidisciplinary individualized family service plan (IFSP) team’s ongoing assessment of an infant or toddler with a disability and a family-directed assessment of the resources, priorities, and concerns of the infant’s or toddler’s family, as related to the needs of the infant or toddler, in the development of integrated goals and outcomes for the IFSP;

b. Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability; and

c. Consulting with and training parents and others regarding the provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

120.12(3) Rule of construction. “Early ACCESS service provider” is a synonym for “early intervention service provider.”

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.13(34CFR303) Early intervention services.

120.13(1) General. “Early intervention services” means developmental services that:

a. Are provided under public supervision;

b. Are selected in collaboration with the parents;

c. Are provided at no cost, except, subject to rules 281—120.520(34CFR303) and 281—120.521(34CFR303), where federal or state law provides for a system of payments by families, including, if applicable, a schedule of sliding fees;

d. Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant’s or toddler’s development, as identified by the IFSP team, in any one or more of the following areas, including:

(1) Physical development;

(2) Cognitive development;

(3) Communication development;

(4) Social or emotional development; or

(5) Adaptive development;

e. Meet the standards of the state in which the early intervention services are provided, including but not limited to the then-applicable version of Iowa’s Early Learning Standards and Part C of the Act;

f. Include services identified under subrule 120.13(2);

g. Are provided by qualified personnel (as that term is defined in rule 281—120.31(34CFR303)), including the types of personnel listed in subrule 120.13(3);

h. To the maximum extent appropriate, are provided in natural environments, as defined in rule 281—120.26(34CFR303) and consistent with rule 281—120.126(34CFR303) and subrule 120.344(4); and

i. Are provided in conformity with an IFSP adopted in accordance with Section 636 of the Act and rule 281—120.20(34CFR303).

120.13(2) Types of early intervention services. Subject to subrule 120.13(4), early intervention services include the following services defined in this subrule:

a. “Assistive technology device” and “assistive technology service” are defined as follows:

(1) “Assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an infant or toddler with a disability. “Assistive technology device” does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.

(2) “Assistive technology service” means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. “Assistive technology service” includes:

1. The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child’s customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child’s family; and
6. Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.

b. “Audiology services” includes:

- (1) Identification of children with auditory impairments, using at-risk criteria and appropriate audiologic screening techniques;
- (2) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;
- (3) Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;
- (4) Provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;
- (5) Provision of services for prevention of hearing loss; and
- (6) Determination of the child’s individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

c. “Family training, counseling, and home visits” means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child’s development.

d. “Health services” has the meaning given the term in rule 281—120.16(34CFR303).

e. “Medical services” means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child’s developmental status and need for early intervention services.

f. “Nursing services” includes:

- (1) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;
- (2) The provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and
- (3) The administration of medications, treatments, and regimens prescribed by a licensed physician.

g. “Nutrition services” includes:

- (1) Conducting individual assessments in:
 1. Nutritional history and dietary intake;
 2. Anthropometric, biochemical, and clinical variables;
 3. Feeding skills and feeding problems; and
 4. Food habits and food preferences;
- (2) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this chapter, based on the findings in subparagraph 120.13(2)“g”(1); and
- (3) Making referrals to appropriate community resources to carry out nutrition goals.

h. “Occupational therapy” includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior, and play, and sensory, motor, and

postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:

- (1) Identification, assessment, and intervention;
- (2) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and
- (3) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

i. "Physical therapy" includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:

- (1) Screening, evaluation, and assessment of children to identify movement dysfunction;
- (2) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
- (3) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

j. "Psychological services" includes:

- (1) Administering psychological and developmental tests and other assessment procedures;
- (2) Interpreting assessment results;
- (3) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and
- (4) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

k. "Service coordination services" has the meaning given the term in rule 281—120.34(34CFR303).

l. "Sign language and cued language services" includes teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.

m. "Social work services" includes:

- (1) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
- (2) Preparing a social or emotional developmental assessment of the infant or toddler within the family context;
- (3) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler and parents;
- (4) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and
- (5) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.

n. "Special instruction" includes:

- (1) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
- (2) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the IFSP for the infant or toddler with a disability;
- (3) Providing families with information, skills, and support related to enhancing the skill development of the child; and
- (4) Working with the infant or toddler with a disability to enhance the child's development.

o. "Speech-language pathology services" includes:

(1) Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and

(3) Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.

p. “Transportation and related costs” includes the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child’s family to receive early intervention services.

q. “Vision services” means:

(1) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;

(2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(3) Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.

120.13(3) *Qualified personnel.* The following are the types of qualified personnel who provide early intervention services under this chapter:

a. Audiologists.

b. Family therapists.

c. Nurses.

d. Occupational therapists.

e. Orientation and mobility specialists.

f. Pediatricians and other physicians for diagnostic and evaluation purposes.

g. Physical therapists.

h. Psychologists.

i. Registered dietitians.

j. Social workers.

k. Special educators, including teachers of children who are deaf or hard of hearing and teachers of children with visual impairments (including blindness).

l. Speech and language pathologists.

m. Vision specialists, including ophthalmologists and optometrists.

120.13(4) *Other services.* The services and personnel identified and defined in subrules 120.13(2) and 120.13(3) do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services. Nothing in rule 281—120.13(34CFR303) prohibits the identification in the IFSP of another type of service as an early intervention service provided that the service meets the criteria identified in subrule 120.13(1) or of another type of personnel that may provide early intervention services in accordance with this chapter, provided such personnel satisfy rule 281—120.31(34CFR303).

120.13(5) *Rule of construction.* “Early ACCESS services” is a synonym for the services described in this rule.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.14(34CFR303) *Elementary school.* “Elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.15(34CFR303) *Free appropriate public education.* “Free appropriate public education” or “FAPE,” as used in rule 281—120.521(34CFR303), means special education and related services that are provided at public expense, under public supervision and direction, and without charge; that meet the standards of the state educational agency (SEA), including the requirements of Part B of the Act; that

include an appropriate preschool, elementary school, or secondary school education in the state involved; and that are provided in conformity with an individualized education program (IEP) that satisfies 34 CFR 300.320 through 300.324.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.16(34CFR303) Health services.

120.16(1) General. “Health services” means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this chapter during the time that the child is eligible to receive early intervention services.

120.16(2) Examples of health services. “Health services” includes:

a. Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

b. Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

120.16(3) Services excluded. “Health services” does not include:

a. Services that are:

(1) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);

(2) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or

(3) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.

1. Nothing in this chapter limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child’s IFSP as being needed to meet the child’s developmental outcomes.

2. Nothing in this chapter prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;

b. Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and

c. Medical-health services (such as immunizations and regular “well-baby” care) that are routinely recommended for all children.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.17(34CFR303) Homeless children. “Homeless children” means children who meet the definition given the term “homeless children and youths” in Section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.18(34CFR303) Include; including. “Include” or “including” means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.19(34CFR303) Indian; Indian tribe. “Indian” means an individual who is a member of an Indian tribe. “Indian tribe” means any federal or state Indian tribe, band, rancheria, pueblo, colony, community, or settlement, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.). Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a state Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.20(34CFR303) Individualized family service plan. “Individualized family service plan” or “IFSP” means a written plan for providing early intervention services to an infant or toddler with a disability under this chapter and the infant’s or toddler’s family that is based on the evaluation and assessment described in rule 281—120.321(34CFR303); that includes the content specified in rule 281—120.344(34CFR303); that is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained (consistent with rule 281—120.420(34CFR303)); and that is developed in accordance with the IFSP procedures in rules 281—120.342(34CFR303), 281—120.343(34CFR303), and 281—120.345(34CFR303).
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.21(34CFR303) Infant or toddler with a disability. “Infant or toddler with a disability” means an individual under three years of age who needs early intervention services because the individual:

120.21(1) Is experiencing a developmental delay, which is a 25 percent delay as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

- a. Cognitive development;
- b. Physical development, including vision and hearing;
- c. Communication development;
- d. Social or emotional development;
- e. Adaptive development; or

120.21(2) Has a diagnosed physical or mental condition that:

- a. Has a high probability of resulting in developmental delay; and
- b. Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.22(34CFR303) Lead agency. “Lead agency” is the Iowa department of education to receive funds under Section 643 of the Act and to administer the state’s responsibilities under Part C of the Act.
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.23(34CFR303) Local educational agency.

120.23(1) General. “Local educational agency” or “LEA” means a public board of education or other public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of the state, or for a combination of school districts or counties as are recognized in the state as an administrative agency for its public elementary schools or secondary schools.

120.23(2) Educational service agencies and other public institutions or agencies. “Educational service agencies and other public institutions or agencies” includes the following:

- a. “Educational service agency,” defined as a regional public multiservice agency:
 - (1) Authorized by state law to develop, manage, and provide services or programs to LEAs; and
 - (2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state.
- b. Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under state law.
- c. Entities that meet the definition of “intermediate educational unit” or “IEU” in Section 602(23) of the Act, as in effect prior to June 4, 1997. Under that definition, an “intermediate educational unit” or “IEU” means any public authority other than an LEA that:
 - (1) Is under the general supervision of the state educational agency;
 - (2) Is established by state law for the purpose of providing FAPE on a regional basis; and

(3) Provides special education and related services to children with disabilities within the state.

120.23(3) BIE-funded schools. “BIE-funded schools” includes an elementary school or secondary school funded by the Bureau of Indian Education, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.24(34CFR303) Multidisciplinary. “Multidisciplinary” means the involvement of two or more separate disciplines or professions and, with respect to:

1. Evaluation of the child in rule 281—120.113(34CFR303) and subrule 120.321(1) and assessments of the child and family in subrule 120.321(1), may include one individual who is qualified in more than one discipline or profession; and

2. The IFSP team in rule 281—120.340(34CFR303) must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator (consistent with subrule 120.343(1)).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.25(34CFR303) Native language.

120.25(1) Limited English proficiency. “Native language,” when used with respect to an individual who is limited English proficient or LEP (as that term is defined in Section 602(18) of the Act and in rule 281—41.27(256B,34CFR300)), means:

a. The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph 120.25(1)“b”; and

b. For evaluations and assessments conducted pursuant to subrule 120.321(1), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

120.25(2) Deaf or hard of hearing; blind or visually impaired; no written language. “Native language,” when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.26(34CFR303) Natural environments. “Natural environments” means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of rule 281—120.126(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.27(34CFR303) Parent.

120.27(1) General. “Parent” means:

a. A biological or adoptive parent of a child;

b. A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;

c. A guardian generally authorized to act as the child’s parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the state if the child is a ward of the state);

d. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

e. A surrogate parent who has been appointed in accordance with rule 281—120.422(34CFR303) or Section 639(a)(5) of the Act.

120.27(2) Rules of construction and application. The following rules are to be used to determine whether a party qualifies as a “parent.”

a. Except as provided in paragraph 120.27(2)“*b*,” the biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified under subrule 120.27(1) to act as a parent, must be presumed to be the parent for purposes of rule 281—120.27(34CFR303) unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child.

b. If a judicial decree or order identifies a specific person or persons under paragraphs 120.27(1)“*a*” through “*d*” to act as the “parent” of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the “parent” for purposes of Part C of the Act, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.28(34CFR303) Parent training and information center. “Parent training and information center” means a center assisted under Section 671 or 672 of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.29(34CFR303) Personally identifiable information. “Personally identifiable information” means personally identifiable information as defined in 34 CFR 99.3, except that the term “student” in the definition of “personally identifiable information” in 34 CFR 99.3 means “child” as used in this chapter and any reference to “school” means “EIS provider” as used in this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.30(34CFR303) Public agency. As used in this chapter, “public agency” means the lead agency and any other agency or political subdivision of the state. The particular public agency serving each infant or toddler and that infant or toddler’s family shall be determined by the particular Early ACCESS needs of each infant and toddler and pursuant to the interagency agreements established under this chapter. Disputes about which agency will serve a particular infant or toddler shall be resolved by the mechanisms that those agreements contain.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.31(34CFR303) Qualified personnel. “Qualified personnel” means personnel who have met state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.32(34CFR303) Scientifically based research. “Scientifically based research” has the meaning given the term in Section 9101(37) of the Elementary and Secondary Education Act of 1965 (ESEA). In applying the ESEA to the regulations under Part C of the Act, any reference to “education activities and programs” refers to “early intervention services.”

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.33(34CFR303) Secretary. “Secretary” means the Secretary of the United States Department of Education.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.34(34CFR303) Service coordination services (case management).

120.34(1) General.

a. As used in this chapter, “service coordination services” means services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child’s family to receive the services and rights, including procedural safeguards, required under this chapter.

b. Each infant or toddler with a disability and the child's family must be provided with one service coordinator who is responsible for:

- (1) Coordinating all services required under this chapter across agency lines; and
- (2) Serving as the single point of contact for carrying out the activities described in this subrule and subrule 120.34(2).

c. Service coordination is an active, ongoing process that involves:

- (1) Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under this chapter;
- (2) Using family-centered practices in all contacts with families; and
- (3) Coordinating the other services identified in the IFSP under subrule 120.344(5) that are needed by, or are being provided to, the infant or toddler with a disability and that child's family.

120.34(2) *Specific service coordination services.* Service coordination services include:

- a. Explaining the system of services and resources called Early ACCESS;
- b. Assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;
- c. Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;
- d. Coordinating evaluations and assessments;
- e. Facilitating and participating in the development, review, and evaluation of IFSPs;
- f. Conducting referral and other activities to assist families in identifying available EIS providers;
- g. Coordinating, facilitating, and monitoring the delivery of services required under this chapter to ensure that the services are provided in a timely manner;
- h. Conducting follow-up activities to determine that appropriate Part C services are being provided;
- i. Informing families of their rights and procedural safeguards, as set forth in Division VI of this chapter and related resources;
- j. Coordinating the funding sources for services required under this chapter; and
- k. Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.

120.34(3) *Use of the term "service coordination" or "service coordination services."* The lead agency's or an EIS provider's use of the term "service coordination" or "service coordination services" does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Title XIX of the Social Security Act—Medicaid), for purposes of claims in compliance with rules 281—120.501(34CFR303) through 281—120.521(34CFR303) (payor of last resort provisions).

120.34(4) *Appointment of service coordinator.* A service coordinator shall be appointed to families as soon as possible after a referral is received. Continuity of services for the child and the child's family shall be a consideration in the determination of whether a change is made in the service coordinator at any time following initial appointment.

120.34(5) *Required service coordinator qualifications.* In addition to satisfying subrule 120.119(1), a service coordinator must be a person who has completed a competency-based training program with content related to knowledge and understanding of eligible children, these rules, the nature and scope of services in Early ACCESS in the state, and the system of payments for services, as well as service coordination responsibilities and strategies. The competency-based training program, approved by the department, shall include different training formats and differentiated training to reflect the background and knowledge of the trainees, including those persons who are state-licensed professionals whose scope of practice includes service coordination. The department or its designee shall determine whether service coordinators have successfully completed the training.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.35(34CFR303) State. “State” means each of the 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and the four outlying areas and jurisdictions of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.36(34CFR303) State educational agency. “State educational agency” or “SEA” means the state board of education or other agency or officer primarily responsible for the state supervision of public elementary schools and secondary schools or, if there is no such officer or agency, an officer or agency designated by the governor or by state law. “State educational agency” includes the agency that receives funds under Sections 611 and 619 of the Act to administer the state’s responsibilities under Part B of the Act. In Iowa, the SEA is the Iowa department of education.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.37(34CFR303) Ward of the state.

120.37(1) General. Subject to subrules 120.37(2) and 120.37(3), “ward of the state” means a child who, as determined by the state where the child resides, is:

- a. A foster child;
- b. A ward of the state; or
- c. In the custody of a public child welfare agency.

120.37(2) Exception. “Ward of the state” does not include a foster child who has a foster parent who meets the definition of “parent” in rule 281—120.27(34CFR303).

120.37(3) Interpretive note. “Ward of the state” is a term rarely used in Iowa law. It would be an extremely rare occurrence for a child to be a ward of the state while not being either a foster child or in the custody of a public child welfare agency.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.38(34CFR303) Other definitions used in this chapter. The following terms apply to this chapter:

120.38(1) Area education agency. “Area education agency” or “AEA” is a political subdivision of the state organized pursuant to Iowa Code chapter 273.

120.38(2) Board. “Board” means the Iowa state board of education.

120.38(3) Community partners. “Community partners” means local providers of signatory agencies, as well as other public or private community programs or agencies, including Early Head Start, child care providers, early childhood Iowa areas, and health programs, that work with Early ACCESS, as described in rule 281—120.803(34CFR303).

120.38(4) Department. “Department” means the Iowa department of education.

120.38(5) Director of education. “Director of education” means the director of the Iowa department of education.

120.38(6) Early childhood Iowa area. “Early childhood Iowa area” means a partnership in a local community with broad representation to lead collaborative efforts involving education, health, and human services programs and services on behalf of children, families and other citizens residing in the local community’s geographic area. An early childhood Iowa area mobilizes individuals and their communities to achieve desired results in order to improve the well-being and quality of life for families with young children from birth through the age of five years.

120.38(7) Early childhood special education. “Early childhood special education” or “ECSE” means special education and related services under Part B of the Act for those individuals with disabilities younger than the age of six.

120.38(8) Eligible child. “Eligible child” is a synonym for “infant or toddler with a disability,” as defined in rule 281—120.21(34CFR303).

120.38(9) Family. “Family” means the persons who are primarily responsible for the care and nurturing in a child’s daily life, including biological or adoptive parents, grandparents, guardians, persons acting as parents, siblings, stepparents, or unmarried partners of parents.

120.38(10) GEPA. “GEPA” is an acronym for the General Education Provisions Act.

120.38(11) Grantee. “Grantee” means a recipient of funds under Part C of the Act or state funds designated for Early ACCESS that has the fiscal and legal obligation to ensure that the Early ACCESS system is implemented regionally. The term “grantee” shall not be construed in a manner that conflicts with the Act.

120.38(12) Individualized family service plan team. “Individualized family service plan team” or “IFSP team” includes the members described in subrule 120.343(1).

120.38(13) Informed clinical opinion. “Informed clinical opinion” means the integration of the results of evaluations, direct observations in various settings, and varied activities with the experience, knowledge, and skills of qualified personnel.

120.38(14) School year. “School year” means the period during which students who are 3 years of age through 21 years of age attend school.

120.38(15) Signatory agency. “Signatory agency” means the department of education, the department of health and human services, and the child health specialty clinics.

120.38(16) Signature. “Signature” has the meaning given the term in Iowa Code section 4.1(39).
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.39 to 120.99 Reserved.

DIVISION III
STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS
FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

281—120.100 Reserved.

281—120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act. In order to be eligible for a grant under Part C of the Act for any fiscal year, the state must meet the following conditions:

120.101(1) Assurances regarding early intervention services and a statewide system. The state must provide the following assurances to the Secretary that:

a. The state has adopted a policy that appropriate early intervention services, as defined in rule 281—120.13(34CFR303), are available to all infants and toddlers with disabilities in the state and their families, including:

(1) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state;

(2) Infants and toddlers with disabilities who are homeless children and their families; and

(3) Infants and toddlers with disabilities who are wards of the state; and

b. The state has in effect a statewide system of early intervention services that satisfies Section 635 of the Act, including policies and procedures that address, at a minimum, the components required in rules 281—120.111(34CFR303) through 281—120.126(34CFR303).

120.101(2) State application and assurances. The state must provide information and assurances to the Secretary, in accordance with 34 CFR §303.200 through 34 CFR §303.236, including:

a. Information that shows that the state meets the application requirements in rules 281—120.200(34CFR303) through 281—120.212(34CFR303); and

b. Assurances that the state also satisfies rules 281—120.221(34CFR303) through 281—120.227(34CFR303).

120.101(3) Approval before implementation. The state must obtain approval by the Secretary before implementing any policy or procedure required to be submitted as part of the state’s application in 34 CFR §303.203, 303.204, 303.206, 303.207, 303.208, 303.209, and 303.211.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.102(34CFR303) State conformity with Part C of the Act. Each state that receives funds under Part C of the Act must ensure that any state rules, regulations, and policies relating to this chapter conform to the purposes and requirements of 34 CFR Part 303.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.103 and **120.104** Reserved.

281—120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part C of the Act must make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under Part C of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.106 to **120.109** Reserved.

281—120.110(34CFR303) Minimum components of a statewide system. Each statewide system (system) must include, at a minimum, the components described in rules 281—120.111(34CFR303) through 281—120.126(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.111(34CFR303) State definition of developmental delay. The system must include the state's rigorous definition of developmental delay, consistent with rule 281—120.10(34CFR303) and subrule 120.203(3), that will be used by the state in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must:

120.111(1) Describe, for each of the areas listed in subrule 120.21(1), the evaluation and assessment procedures, consistent with rule 281—120.321(34CFR303), that will be used to measure a child's development; and

120.111(2) Specify that 25 percent is the applicable level of developmental delay in functioning or other comparable criteria to constitute a developmental delay in one or more of the developmental areas identified in subrule 120.21(1).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.112(34CFR303) Availability of early intervention services. Each system must include a state policy that is in effect and that ensures that appropriate early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including:

120.112(1) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state; and

120.112(2) Infants and toddlers with disabilities who are homeless children and their families.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures.

120.113(1) General. Subject to subrule 120.113(2), each system must ensure the performance of the following:

a. A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the state; and

b. A family-directed identification of the needs of the family of the infant or toddler to assist appropriately in the development of the infant or toddler.

120.113(2) Rule of construction. The evaluation and family-directed identification required in subrule 120.113(1) must satisfy rule 281—120.321(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.114(34CFR303) Individualized family service plan (IFSP). Each system must ensure, for each infant or toddler with a disability and the infant's or toddler's family in the state, that an IFSP, as defined in rule 281—120.20(34CFR303), is developed and implemented that satisfies rules 281—120.340(34CFR303) through 281—120.345(34CFR303), and that includes service coordination services, as defined in rule 281—120.34(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.115(34CFR303) Comprehensive child find system. Each system must include a comprehensive child find system that satisfies rules 281—120.302(34CFR303) and 281—120.303(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.116(34CFR303) Public awareness program. Each system must include a public awareness program that focuses on the early identification of infants and toddlers with disabilities; and provides information to parents of infants and toddlers through primary referral sources in accordance with rule 281—120.301(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.117(34CFR303) Central directory. Each system must include a central directory that is accessible to the general public (i.e., through the department's website and other appropriate means) and includes accurate, up-to-date information about:

120.117(1) Public and private early intervention services, resources, and experts available in the state;

120.117(2) Professional and other groups (including parent support, and training and information centers, such as those funded under the Act) that provide assistance to infants and toddlers with disabilities eligible under Part C of the Act and their families; and

120.117(3) Research and demonstration projects being conducted in the state relating to infants and toddlers with disabilities.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.118(34CFR303) Comprehensive system of personnel development (CSPD). Each system must include a comprehensive system of personnel development (CSPD), including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the state.

120.118(1) Required elements. A CSPD must include:

a. Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers;

b. Promoting the preparation of EIS providers who are fully and appropriately qualified to provide early intervention services under this chapter; and

c. Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under Part C of the Act to a preschool program under Section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act, or another appropriate program.

120.118(2) Optional elements. A CSPD may include:

a. Training personnel to work in rural and inner-city areas;

b. Training personnel in the emotional and social development of young children;

c. Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and

d. Training personnel who provide services under this chapter using standards that are consistent with early learning personnel development standards funded under the state advisory council on early childhood education and care established under the Head Start Act, if applicable.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.119(34CFR303) Personnel standards.

120.119(1) General. Each system must include policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained.

120.119(2) Qualification standards. The policies and procedures required in subrule 120.119(1) must provide for the establishment and maintenance of qualification standards that are consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable

requirements that apply to the profession, discipline, or area in which personnel are providing early intervention services.

120.119(3) *Use of paraprofessionals and assistants.* Nothing in Part C of the Act may be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with state law, regulation, or written policy to assist in the provision of early intervention services under Part C of the Act to infants and toddlers with disabilities.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.120(34CFR303) Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities. Iowa's system includes the designation of the Iowa department of education as lead agency, with a single line of responsibility for the following items:

120.120(1) *General supervision.* The department is responsible for the following:

a. The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act.

b. The monitoring of programs and activities used by the state to carry out Part C of the Act (whether or not the programs or activities are administered by agencies, institutions, organizations, and EIS providers that are receiving assistance under Part C of the Act) to ensure that the state complies with Part C of the Act, including:

(1) Monitoring agencies, institutions, organizations, and EIS providers used by the state to carry out Part C of the Act;

(2) Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and these rules;

(3) Providing technical assistance, if necessary, to those agencies, institutions, organizations, and EIS providers;

(4) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance; and

(5) Conducting the activities in subparagraphs 120.120(1) "a" (1) through (4), consistent with rules 281—120.700(34CFR303) through 281—120.707(34CFR303), and any other activities required by the state under those rules.

120.120(2) *Identification and coordination of resources.* The identification and coordination of all available resources for early intervention services within the state, including those from federal, state, local, and private sources, consistent with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

120.120(3) *Assignment of financial responsibility.* The assignment of financial responsibility in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

120.120(4) *Procedures concerning timely provision of services.* The development of procedures in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303) to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.

120.120(5) *Agency-level dispute resolution.* The resolution of intra-agency and interagency disputes in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

120.120(6) *Methods of establishing financial responsibility.* The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with rule 281—120.511(34CFR303), that define the financial responsibility of each agency for paying for early intervention services (consistent with state law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.121(34CFR303) Policy for contracting or otherwise arranging for services. Each system must include a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the state, consistent with

the provisions of Part C of the Act, including the contents of the application, and the conditions of the contract or other arrangements. The policy must:

1. Include a requirement that all early intervention services must meet state standards and be consistent with the provisions of this chapter; and
2. Be consistent with the Education Department General Administrative Regulations in 34 CFR Part 80.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.122(34CFR303) Reimbursement procedures. Each system must include procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.123(34CFR303) Procedural safeguards. Each system must include procedural safeguards that satisfy rules 281—120.400(34CFR303) through 281—120.449(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.124(34CFR303) Data collection.

120.124(1) General. Each statewide system must include a system for compiling and reporting timely and accurate data that satisfies subrule 120.124(2) and rules 281—120.700(34CFR303) through 281—120.702(34CFR303) and rules 281—120.720(34CFR303) through 281—120.724(34CFR303).

120.124(2) Required description. The data system required in subrule 120.124(1) must include a description of the process that the state uses, or will use, to compile data on infants or toddlers with disabilities receiving early intervention services under this chapter, including a description of the state's sampling methods, if sampling is used, for reporting the data required by the Secretary under Sections 616 and 618 of the Act and rules 281—120.700(34CFR303) through 281—120.707(34CFR303) and rules 281—120.720(34CFR303) through 281—120.724(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.125(34CFR303) State interagency coordinating council. Each system must include a state interagency coordinating council satisfying rules 281—120.600(34CFR303) through 281—120.605(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.126(34CFR303) Early intervention services in natural environments. Each system must include policies and procedures to ensure, consistent with rule 281—120.13(34CFR303) (early intervention services), rule 281—120.26(34CFR303) (natural environments), and subrule 120.344(4) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided:

1. To the maximum extent appropriate, in natural environments; and
2. In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP team, only when early intervention services cannot be achieved satisfactorily in a natural environment.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.127 to 120.199 Reserved.

DIVISION IV
STATE APPLICATION AND ASSURANCES

281—120.200 Reserved.

281—120.201(34CFR303) Designation of lead agency. Each application must include the designation of the department as the lead agency that will be responsible for the administration of funds provided under Part C of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.202(34CFR303) Certification regarding financial responsibility. Each application must include a certification to the Secretary that the arrangements to establish financial responsibility for the provision of Part C services among appropriate public agencies under rule 281—120.511(34CFR303) and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services both satisfy rules 281—120.500(34CFR303) through 281—120.521(34CFR303) and are current as of the date of submission of the certification.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.203(34CFR303) Statewide system and description of services. Each application must include the following items:

120.203(1) Description of services. A description of services to be provided under this chapter to infants and toddlers with disabilities and their families through the state's system;

120.203(2) Identification and coordination of resources. The state's policies and procedures regarding the identification and coordination of all available resources within the state from federal, state, local, and private sources as required under Division VII of this chapter and including:

a. Policies or procedures adopted by the state as its system of payments that satisfy rules 281—120.510(34CFR303), 281—120.520(34CFR303), and 281—120.521(34CFR303); and

b. Methods used by the state to implement subrule 120.511(2); and

120.203(3) Rigorous definition of developmental delay. The state's rigorous definition of developmental delay, under rule 281—120.111(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.204 Reserved.

281—120.205(34CFR303) Description of use of funds.

120.205(1) General. Each application must include a description of the uses for funds under this chapter for the fiscal year or years covered by the application. The description must be presented separately for the lead agency and the council and include the information required in subrules 120.205(2) through 120.205(5).

120.205(2) Reserved.

120.205(3) Maintenance and implementation activities. Each application must include a description of the nature and scope of each major activity to be carried out under Part C of the Act, consistent with rule 281—120.501(34CFR303), and the approximate amount of funds to be spent for each activity.

120.205(4) Direct services. Each application must include a description of any direct services that the state expects to provide to infants and toddlers with disabilities and their families with funds under this chapter, consistent with rule 281—120.501(34CFR303), and the approximate amount of funds under this chapter to be used for the provision of each direct service.

120.205(5) Activities by other public agencies. If other public agencies are to receive funds under Part C of the Act, the application must include the name of each agency expected to receive funds, the approximate amount of funds each agency will receive, and a summary of the purposes for which the funds will be used.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.206(34CFR303) Referral policies for specific children. Each application must include the state's policies and procedures that require the referral for early intervention services under this chapter of specific children under the age of three, as described in subrule 120.303(2).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.207(34CFR303) Availability of resources. Each application must include a description of the procedure used by the state to ensure that resources are made available under this chapter for all geographic areas within the state.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.208(34CFR303) Public participation policies and procedures.

120.208(1) Application. At least 60 days prior to being submitted to the department, each application for funds (including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application) must be published in a manner that will ensure circulation throughout the state for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period.

120.208(2) State policies and procedures. Each application must include a description of the policies and procedures used by the state to ensure that, before adopting any new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these rules, the lead agency:

a. Holds public hearings on the new policy or procedure (including any revision to an existing policy or procedure);

b. Provides notice of the hearings held in accordance with paragraph 120.208(2)“*a*” at least 30 days before the hearings are conducted to enable public participation; and

c. Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these rules.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.209(34CFR303) Transition to preschool and other programs.

120.209(1) Application requirements. The department must include the following in its application:

a. A description of the policies and procedures the state will use to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving early intervention services under this chapter to:

(1) Preschool or other appropriate services (for toddlers with disabilities); or

(2) Exiting the program for infants and toddlers with disabilities.

b. A description of how the state will satisfy subrules 120.209(2) through 120.209(6).

c. An intra-agency agreement between the department’s program that administers Part C of the Act and the department’s program that administers Section 619 of Part B of the Act (early childhood special education). To ensure a seamless transition between services under Parts C and B of the Act, the intra-agency agreement must address how the department will satisfy subrules 120.209(2) through 120.209(6) (including any policies adopted by the lead agency under 34 CFR §303.401(d) and (e)), subrule 120.344(8), rule 281—41.124(256B,34CFR300), and 281—subrules 41.101(2) and 41.321(6).

d. Any policy the department has adopted under 34 CFR §303.401(d) and (e).

120.209(2) Notification to the department and appropriate AEA.

a. The department must ensure that:

(1) Subject to paragraph 120.209(2)“*b*,” not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the public agency responsible for providing Early ACCESS services to the toddler notifies the department and the AEA for the area in which the toddler resides that the toddler on the toddler’s third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with state law;

(2) Subject to paragraph 120.209(2)“*b*,” if the toddler is determined to be eligible for Early ACCESS services more than 45 but less than 90 days before that toddler’s third birthday and if that toddler may be eligible for preschool services under Part B of the Act, the public agency responsible for providing Early ACCESS services to the toddler, as soon as possible after determining the child’s eligibility, notifies the department and the AEA for the area in which the toddler with a disability resides

that the toddler on the toddler's third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with state law; or

(3) Subject to paragraph 120.209(2)“b,” if a toddler is referred to Early ACCESS under rules 281—120.302(34CFR303) and 281—120.303(34CFR303) fewer than 45 days before that toddler's third birthday and that toddler may be eligible for preschool services under Part B of the Act, the public agency that would be responsible for determining the child's eligibility under this chapter, with parental consent required under rule 281—120.414(34CFR303), refers the toddler to the department and the AEA for the area in which the toddler resides; however, no agency is required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

b. The department must ensure that the notification required under subparagraphs 120.209(2)“a”(1) and (2) is consistent with any policy that the state has adopted, under 34 CFR §303.401(e), permitting a parent to object to disclosure of personally identifiable information.

120.209(3) Conference to discuss services. The department must ensure that:

a. If a toddler with a disability may be eligible for preschool services under Part B of the Act, the public agency responsible for Early ACCESS services, with the approval of the family of the toddler, convenes a conference, among that agency, the family, and the AEA of the toddler's residence not fewer than 90 days—and, at the discretion of all parties, not more than nine months—before the toddler's third birthday to discuss any services the toddler may receive under Part B of the Act; and

b. If the public agency determines that a toddler with a disability is not potentially eligible for preschool services under Part B of the Act, the public agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among that agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.

120.209(4) Transition plan. The department must ensure that for all toddlers with disabilities:

a. The appropriate public agency reviews the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year and each family of a toddler with a disability who is served under this chapter is included in the development of the transition plan required under this rule and subrule 120.344(8);

b. The appropriate public agency establishes a transition plan in the IFSP not fewer than 90 days—and, at the discretion of all parties, not more than nine months—before the toddler's third birthday; and

c. The transition plan in the IFSP includes, consistent with subrule 120.344(8), as appropriate:

(1) Steps for the toddler with a disability and the toddler's family to exit from the Part C program; and

(2) Any transition services that the IFSP team identifies as needed by that toddler and the toddler's family.

120.209(5) Transition conference and meeting to develop transition plan. Any conference conducted under subrule 120.209(3) or meeting to develop the transition plan under subrule 120.209(4) (which conference and meeting may be combined into one meeting) must satisfy subrules 120.342(4), 120.342(5), and 120.343(1).

120.209(6) Applicability of transition requirements. The transition requirements in subparagraphs 120.209(2)“a”(1) and (2), paragraph 120.209(3)“a,” and subrule 120.209(4) apply to all toddlers with disabilities receiving services under this chapter before those toddlers turn age three.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.210(34CFR303) Coordination with Head Start and Early Head Start, early education, and child care programs. Each application must contain a description of state efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), early education and child care programs, and services under this chapter. The department must participate, consistent with Section 642B(b)(1)(C)(viii) of the Head Start Act, on the state advisory council on early childhood education and care established under the Head Start Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.211 Reserved.

281—120.212(34CFR303) Additional information and assurances. The department's application shall describe the steps the state is taking to ensure equitable access to, and equitable participation in, the Part C statewide system as required by Section 427(b) of GEPA and shall supply other information and assurances as the Secretary may reasonably require.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.213 to 120.219 Reserved.

281—120.220(34CFR303) Assurances satisfactory to the Secretary. The department's application must contain assurances satisfactory to the Secretary that the state has satisfied rules 281—120.221(34CFR303) through 281—120.227(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.221(34CFR303) Expenditure of funds. The department must ensure that federal funds made available to the state under Section 643 of the Act will be expended in accordance with the provisions of this chapter, including rules 281—120.500(34CFR303) and 281—120.501(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.222(34CFR303) Payor of last resort. The department must ensure that it will comply with rules 281—120.510(34CFR303) and 281—120.511(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.223(34CFR303) Control of funds and property. The department must ensure that the control of funds provided under Part C of the Act, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this chapter and that a public agency will administer the funds and property.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.224(34CFR303) Reports and records. The department must ensure that it will make reports in the form and containing the information that the Secretary may require and will keep records and afford access to those records as the Secretary may find necessary to ensure compliance with this chapter, the correctness and verification of reports, and the proper disbursement of funds provided under this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.225(34CFR303) Prohibition against supplanting; indirect costs.

120.225(1) General. The department must provide satisfactory assurance that the federal funds made available under Section 643 of the Act to the state:

- a. Will not be commingled with state funds; and
- b. Will be used so as to supplement the level of state and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those state and local funds.

120.225(2) Additional information. To meet the requirement in subrule 120.225(1), the total amount of state and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this chapter and their families must be at least equal to the total amount of state and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for:

- a. A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this chapter; and
- b. Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment.

120.225(3) Requirement regarding indirect costs.

a. Except as provided in paragraph 120.225(3) "b," the department may not charge indirect costs to its Part C grant.

b. If approved by the department's cognizant federal agency or by the Secretary, the department must charge indirect costs through either:

- (1) A restricted indirect cost rate that satisfies 34 CFR 76.560 through 76.569; or
- (2) A cost allocation plan that meets the non-supplanting requirements in subrule 120.225(2) and 34 CFR Part 76 of EDGAR.

c. In charging indirect costs under paragraph 120.225(3) “b,” the department may not charge rent, occupancy, or space maintenance costs directly to the Part C grant, unless those costs are specifically approved in advance by the Secretary.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.226(34CFR303) Fiscal control. The department must ensure that fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, federal funds paid under Part C of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.227(34CFR303) Traditionally underserved groups. The department must ensure that policies and practices have been adopted to ensure that traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the state, are meaningfully involved in the planning and implementation of this chapter and that these families have access to culturally competent services within their local geographical areas.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.228(34CFR303) Subsequent state application and modifications of application.

120.228(1) Subsequent state application. If the state has on file with the Secretary a policy, procedure, method, or assurance that demonstrates that the state meets an application requirement in this chapter, including any policy, procedure, method, or assurance filed under this chapter (as in effect before the date of enactment of the Act, December 3, 2004), the Secretary considers the state to have met that requirement for purposes of receiving a grant under Part C of the Act.

120.228(2) Modification of application. An application submitted by the state that satisfies this chapter remains in effect until the state submits to the Secretary such modifications as the state determines necessary. This rule applies to a modification of an application to the same extent and in the same manner as this subrule applies to the original application.

120.228(3) Modifications required by the Secretary. The Secretary may require the state to modify its application under Part C of the Act to the extent necessary to ensure the state’s compliance with Part C of the Act if:

- a. An amendment is made to the Act or to a federal regulation issued under the Act;
- b. A new interpretation of the Act is made by a federal court or the state’s highest court; or
- c. An official finding of noncompliance with federal law or regulations is made with respect to

the state.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.229 to 120.299 Reserved.

DIVISION V
CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

281—120.300(34CFR303) General. The statewide comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families must include the following components:

120.300(1) Pre-referral activities. The system must contain pre-referral policies and procedures that include:

- a. A public awareness program as described in rule 281—120.301(34CFR303); and
- b. A comprehensive child find system as described in rule 281—120.302(34CFR303).

120.300(2) Referral activities. The system must contain referral policies and procedures as described in rule 281—120.303(34CFR303).

120.300(3) *Post-referral activities.* The system must contain post-referral policies and procedures that ensure compliance with the timeline requirements in rule 281—120.310(34CFR303) and include:

- a. Screening, if applicable, as described in rule 281—120.320(34CFR303);
- b. Evaluations and assessments as described in rules 281—120.321(34CFR303) and 281—120.322(34CFR303); and
- c. Development, review, and implementation of IFSPs as described in rules 281—120.340(34CFR303) through 281—120.346(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.301(34CFR303) Public awareness program—information for parents.

120.301(1) *Preparation and dissemination.* In accordance with rule 281—120.116(34CFR303), the system must include a public awareness program that requires the department to:

- a. Prepare information on the availability of early intervention services under this chapter, and other services, as described in subrule 120.301(2) and disseminate to all primary referral sources (especially hospitals and physicians) the information to be given to parents of infants and toddlers, especially parents with premature infants or infants with other physical risk factors associated with learning or developmental complications; and
- b. Adopt procedures for assisting the primary referral sources described in subrule 120.303(3) in disseminating the information described in subrule 120.301(2) to parents of infants and toddlers with disabilities.

120.301(2) *Information to be provided.* The information required to be prepared and disseminated under subrule 120.301(1) must include:

- a. A description of the availability of Early ACCESS services under this chapter;
- b. A description of the child find system and how to refer a child under the age of three for an evaluation or early intervention services; and
- c. A central directory, as described in rule 281—120.117(34CFR303).

120.301(3) *Information specific to toddlers with disabilities.* The public awareness program also must include a requirement that the department provide for informing parents of toddlers with disabilities of the availability of services under Section 619 of the Act not fewer than 90 days prior to the toddler's third birthday.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.302(34CFR303) Comprehensive child find system.

120.302(1) *General.* The Early ACCESS system must include a comprehensive child find system that:

- a. Is consistent with Part B of the Act (see 34 CFR 300.111);
- b. Includes a system for making referrals to applicable public agencies or EIS providers under this chapter that:
 - (1) Includes timelines; and
 - (2) Provides for participation by the primary referral sources described in subrule 120.303(3);
- c. Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services under this chapter that will reduce the need for future services; and
- d. Satisfies subrules 120.302(2) and 120.302(3) and rules 281—120.303(34CFR303), 281—120.310(34CFR303), 281—120.320(34CFR303), and 281—120.321(34CFR303).

120.302(2) *Scope of child find.* The department, as part of the child find system, must ensure that:

- a. All infants and toddlers with disabilities in the state who are eligible for early intervention services under this chapter are identified, located, and evaluated, including:
 - (1) Indian infants and toddlers with disabilities residing on a reservation or settlement geographically located in the state (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the state based, in part, on the information provided by them to the department under 34 CFR §303.731(e)(1)); and
 - (2) Infants and toddlers with disabilities who are homeless, in foster care, and wards of the state; and

- (3) Infants and toddlers with disabilities that are referenced in subrule 120.303(2); and
 b. An effective method is developed and implemented to identify children who are in need of early intervention services.

120.302(3) Coordination.

a. The department, with the assistance of the council, must ensure that the child find system under this chapter:

(1) Is coordinated with all other major efforts to locate and identify children by other state agencies responsible for administering the various education, health, and social service programs relevant to this chapter, including Indian tribes that receive payments under this chapter, and other Indian tribes, as appropriate; and

(2) Is coordinated with the efforts of the:

1. Program authorized under Part B of the Act;
2. Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act (MCHB or Title V) (42 U.S.C. 701(a));
3. Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(4)(B));
4. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);
5. Head Start Act (including Early Head Start programs under Section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);
6. Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);
7. Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the state agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106(a));
8. Child care programs in the state;
9. Programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
10. Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and
11. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

b. The department, with the advice and assistance of the council, must take steps to ensure that:

- (1) There will not be unnecessary duplication of effort by the programs identified in paragraph 120.302(3)“a”; and
- (2) The state will make use of the resources available through each public agency and EIS provider in the state to implement the child find system in an effective manner.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.303(34CFR303) Referral procedures.

120.303(1) General. The child find system described in rule 281—120.302(34CFR303) must include the state's procedures for use by primary referral sources for referring a child under the age of three to the Part C program. The procedures required in this subrule must:

a. Provide for referring a child as soon as possible, but in no case more than seven days, after the child has been identified; and
 b. Meet the requirements in subrules 120.303(2) and 120.303(3).

120.303(2) Referral of specific at-risk infants and toddlers. The procedures required in subrule 120.303(1) must provide for requiring the referral of a child under the age of three who:

- a. Is the subject of a substantiated case of child abuse or neglect; or
- b. Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

120.303(3) Primary referral sources. As used in this division, primary referral sources include:

- a. Hospitals, including prenatal and postnatal care facilities;
- b. Physicians;
- c. Parents, including parents of infants and toddlers;
- d. Child care programs and early learning programs;
- e. AEAs, LEAs and schools;
- f. Public health facilities;
- g. Other public health or social service agencies;
- h. Other clinics and health care providers;
- i. Public agencies and staff in the child welfare system, including child protective service and foster care;
- j. Homeless family shelters; and
- k. Domestic violence shelters and agencies.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.304 to 120.309 Reserved.

281—120.310(34CFR303) Post-referral timeline (45 calendar days).

120.310(1) General. Except as provided in subrule 120.310(2), any screening under rule 281—120.320(34CFR303); the initial evaluation and the initial assessments of the child and family under rule 281—120.321(34CFR303); and the initial IFSP meeting under rule 281—120.342(34CFR303) must be completed within 45 calendar days from the date the public agency or EIS provider receives the referral of the child.

120.310(2) Limited exceptions. Subject to subrule 120.310(3), the 45-day timeline described in subrule 120.310(1) does not apply for any period when:

- a. The child or parent is unavailable to complete the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child’s early intervention records; or
- b. The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the public agency or EIS provider to obtain parental consent.

120.310(3) Duties when limited exceptions occur. The department must develop procedures to ensure that in the event the circumstances described in subrule 120.310(2) exist, the public agency or EIS provider must:

- a. Document in the child’s early intervention records the exceptional family circumstances or repeated attempts by the public agency or EIS provider to obtain parental consent;
- b. Complete the screening (if applicable), the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described in paragraph 120.310(2) “a” no longer exist or parental consent is obtained for the screening (if applicable), the initial evaluation, and the initial assessment of the child; and
- c. Develop and implement an interim IFSP, to the extent appropriate and consistent with rule 281—120.345(34CFR303).

120.310(4) Initial family assessment. The initial family assessment must be conducted within the 45-day timeline in subrule 120.310(1) if the parent concurs and even if other family members are unavailable.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.311 to 120.319 Reserved.

281—120.320(34CFR303) Screening procedures.

120.320(1) General.

- a. The department may adopt procedures, consistent with this rule, to screen children under the age of three who have been referred to the Part C program to determine whether they are suspected of

having a disability under this chapter. If a public agency or EIS provider proposes to screen a child, the agency or EIS provider must:

(1) Provide the parent notice under rule 281—120.421(34CFR303) of the public agency’s or EIS provider’s intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent’s right to request an evaluation under rule 281—120.321(34CFR303) at any time during the screening process; and

(2) Obtain parental consent as required in subrule 120.420(1) before conducting the screening procedures.

b. If the parent consents to the screening and the screening or other available information indicates that the child is:

(1) Suspected of having a disability, after notice is provided under rule 281—120.421(34CFR303) and once parental consent is obtained as required in rule 281—120.420(34CFR303), an evaluation and assessment of the child must be conducted under rule 281—120.321(34CFR303); or

(2) Not suspected of having a disability, the public agency or EIS provider must ensure that notice of that determination is provided to the parent under rule 281—120.421(34CFR303), and that the notice describes the parent’s right to request an evaluation.

c. If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted under rule 281—120.321(34CFR303), even if the public agency or EIS provider has determined under subparagraph 120.320(1)“*b*”(2) that the child is not suspected of having a disability.

120.320(2) Definition of screening procedures. As used in this rule, “screening procedures”:

a. Means activities under subrule 120.320(1) that are carried out by, or under the supervision of, a public agency or EIS provider to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of early intervention services; and

b. Includes the administration of appropriate instruments by personnel trained to administer those instruments.

120.320(3) Condition for evaluation or early intervention services. For every child under the age of three who is referred to the Part C program or screened in accordance with subrule 120.320(1), the applicable agency is not required to:

a. Provide an evaluation of the child under rule 281—120.321(34CFR303) unless the child is suspected of having a disability or the parent requests an evaluation under paragraph 120.320(1)“*c*”; or

b. Make Early ACCESS services available under this chapter to the child unless a determination is made that the child meets the definition of infant or toddler with a disability under rule 281—120.21(34CFR303).

120.320(4) Rules of construction.

a. This rule does not apply to activities undertaken by entities not regulated by this chapter, activities that are undertaken by grantees, signatory agencies, Early ACCESS providers prior to referral, activities undertaken after consent for an evaluation and assessment under rule 281—120.321(34CFR303) is received, or to activities taken pursuant to an IFSP.

b. As a general rule, a public agency suspects a child is a child with a disability when the public agency is aware of facts and circumstances that, when considered as a whole, would cause a reasonably prudent public agency to believe that the child’s performance might be explained because the child is an eligible individual under this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.321(34CFR303) Evaluation of the child and assessment of the child and family.

120.321(1) General. The department must ensure that, subject to obtaining parental consent in accordance with subrule 120.420(1), each child under the age of three who is referred for evaluation or early intervention services under this chapter and suspected of having a disability receives:

a. A timely, comprehensive, multidisciplinary evaluation of the child in accordance with subrule 120.321(4) unless eligibility is established in paragraph 120.321(3)“*a*”; and

b. If the child is determined eligible as an infant or toddler with a disability as defined in rule 281—120.21(34CFR303):

(1) A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;

(2) A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler. The assessments of the child and family are described in subrule 120.321(5), and these assessments may occur simultaneously with the evaluation, provided that the requirements of subrule 120.321(4) are met.

120.321(2) Definitions. As used in this chapter:

a. "Evaluation" means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this chapter, consistent with the definition of infant or toddler with a disability in rule 281—120.21(34CFR303);

b. "Initial evaluation" means the child's evaluation to determine the child's initial eligibility under this chapter;

c. "Assessment" means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under this chapter and includes the assessment of the child, consistent with paragraph 120.321(5)"*a*" and the assessment of the child's family, consistent with paragraph 120.321(5)"*b*"; and

d. "Initial assessment" means the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.

120.321(3) General procedures.

a. A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under this chapter if those records indicate that the child's level of functioning in one or more of the developmental areas identified in subrule 120.21(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under rule 281—120.21(34CFR303). If the child's Part C eligibility is established under this paragraph, the public agency or EIS provider must conduct assessments of the child and family in accordance with subrule 120.321(5).

b. Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the department must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this chapter even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under subrule 120.321(4).

c. All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

d. Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child.

e. Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed.

120.321(4) Procedures for evaluation of the child. In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this chapter. Procedures must include:

a. Administering an evaluation instrument;

b. Taking the child's history (including interviewing the parent);

c. Identifying the child's level of functioning in each of the developmental areas in subrule 120.21(1);

d. Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and

e. Reviewing medical, educational, or other records.

120.321(5) Procedures for assessment of the child and family.

a. An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:

- (1) A review of the results of the evaluation conducted under subrule 120.321(4);
- (2) Personal observations of the child; and
- (3) The identification of the child's needs in each of the developmental areas in subrule 120.21(1).

b. A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must:

- (1) Be voluntary on the part of each family member participating in the assessment;
- (2) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and
- (3) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.322(34CFR303) Determination that a child is not eligible. If, based on the evaluation conducted under rule 281—120.321(34CFR303), the applicable agency determines that a child is not eligible under this chapter, the agency must provide the parent with prior written notice required in rule 281—120.421(34CFR303), and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under rule 281—120.430(34CFR303), such as requesting a due process hearing or mediation or filing a state complaint.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.323 to 120.339 Reserved.

281—120.340(34CFR303) Individualized family service plan—general. For each infant or toddler with a disability, the department must ensure the development, review, and implementation of an individualized family service plan developed by a multidisciplinary team, which includes the parent, that is consistent with the definition of individualized family service plan in rule 281—120.20(34CFR303) and satisfies rules 281—120.342(34CFR303) through 281—120.346(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.341 Reserved.

281—120.342(34CFR303) Procedures for IFSP development, review, and evaluation.

120.342(1) Meeting to develop initial IFSP—timelines. For a child referred to the Early ACCESS system and determined to be eligible under this chapter as an infant or toddler with a disability, a meeting to develop the initial IFSP must be conducted within the 45-day time period described in rule 281—120.310(34CFR303).

120.342(2) Periodic review.

a. A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine:

- (1) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
- (2) Whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary.

b. The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.

120.342(3) *Annual meeting to evaluate the IFSP.* A meeting must be conducted on at least an annual basis to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family conducted under rule 281—120.321(34CFR303) must be used in determining the early intervention services that are needed and will be provided.

120.342(4) *Accessibility and convenience of meetings.*

a. IFSP meetings must be conducted:

- (1) In settings and at times that are convenient for the family; and
- (2) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

b. Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

120.342(5) *Parental consent.* The contents of the IFSP must be fully explained to the parents and informed written consent, as described in rule 281—120.7(34CFR303), must be obtained, as required in subrule 120.420(1), prior to the provision of early intervention services described in the IFSP. Each early intervention service must be provided as soon as possible after the parent provides consent for that service, as required in subrule 120.344(6).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.343(34CFR303) IFSP team meeting and periodic review.

120.343(1) *Initial and annual IFSP team meeting.*

a. Each initial meeting and each annual IFSP team meeting to evaluate the IFSP must include the following participants:

- (1) The parent or parents of the child.
- (2) Other family members, as requested by the parent, if feasible to do so.
- (3) An advocate or person outside of the family, if the parent requests that the person participate.
- (4) The service coordinator designated by the public agency to be responsible for implementing the IFSP.

(5) A person or persons directly involved in conducting the evaluations and assessments in rule 281—120.321(34CFR303).

(6) As appropriate, persons who will be providing early intervention services under this chapter to the child or family.

b. If a person listed in subparagraph 120.343(1) "a"(5) is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:

- (1) Participating in a telephone conference call.
- (2) Having a knowledgeable authorized representative attend the meeting.
- (3) Making pertinent records available at the meeting.

120.343(2) *Periodic review.* Each periodic review under subrule 120.342(2) must provide for the participation of persons in subparagraphs 120.343(1) "a"(1) through (4). If conditions warrant, provisions must be made for the participation of other representatives identified in subrule 120.343(1).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.344(34CFR303) Content of an IFSP.

120.344(1) *Information about the child's status.* The IFSP must include a statement of the infant or toddler with a disability's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on the information from that child's evaluation and assessments conducted under rule 281—120.321(34CFR303).

120.344(2) *Family information.* With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under paragraph 120.321(5) "b."

120.344(3) Results or outcomes. The IFSP must include a statement of the measurable results or measurable outcomes expected to be achieved for the child (including preliteracy and language skills, as developmentally appropriate for the child) and family, and the criteria, procedures, and timelines used to determine:

a. The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and

b. Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary.

120.344(4) Early intervention services.

a. The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in subrule 120.344(3), including:

(1) The length, duration, frequency, intensity, and method of delivering the early intervention services;

(2) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with paragraph 120.13(1)“*h*,” rule 281—120.26(34CFR303), and rule 281—120.126(34CFR303), or, subject to subparagraph 120.344(4)“*a*”(3), a justification as to why an early intervention service will not be provided in the natural environment;

(3) The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service, must be:

1. Made by the IFSP team (which includes the parent and other team members);
2. Consistent with the provisions in paragraph 120.13(1)“*h*,” rule 281—120.26(34CFR303), and rule 281—120.126(34CFR303); and
3. Based on the child’s outcomes identified by the IFSP team in subrule 120.344(3);
- (4) The location of the early intervention services; and
- (5) The payment arrangements, if any.

b. As used in this subrule:

(1) “Frequency and intensity” means the number of days or sessions that a service will be provided and whether the service is provided on an individual or group basis.

(2) “Method” means how a service is provided.

(3) “Length” means the length of time the service is provided during each session of that service (such as an hour or other specified time period).

(4) “Duration” means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in the child’s IFSP).

(5) “Location” means the actual place or places where a service will be provided.

120.344(5) Other services. To the extent appropriate, the IFSP also must:

a. Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded under this chapter; and

b. If those services are not currently being provided, include a description of the steps the service coordinator or family may take to assist the child and family in securing those other services.

120.344(6) Dates and duration of services. The IFSP must include:

a. The projected date for the initiation of each early intervention service in subrule 120.344(4), which date must be as soon as possible after the parent consents to the service, as required in subrules 120.342(5) and 120.420(1); and

b. The anticipated duration of each service.

120.344(7) Service coordinator. The IFSP must include the name of the service coordinator from the profession most relevant to the child’s or family’s needs (or who is otherwise qualified to carry out all applicable responsibilities under this chapter), who will be responsible for implementing the early intervention services identified in a child’s IFSP, including transition services, and coordination

with other agencies and persons. In satisfying this subrule, the term “profession” includes “service coordination.”

120.344(8) Transition from Part C services.

a. The IFSP must include the steps and services to be taken to support the smooth transition of the child, in accordance with rule 281—120.209(34CFR303), from Part C services to:

- (1) Preschool services under Part B of the Act, to the extent that those services are appropriate; or
- (2) Other appropriate services.

b. The steps required in paragraph 120.344(8)“*a*” must include:

(1) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child’s transition;

(2) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;

(3) Confirmation that child find information about the child has been transmitted to the AEA or other relevant agency, in accordance with subrule 120.209(2) and, with parental consent if required under rule 281—120.414(34CFR303), transmission of additional information needed by the AEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with rules 281—120.340(34CFR30) through 281—120.345(34CFR303); and

(4) Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.345(34CFR303) Interim IFSPs—provision of services before evaluations and assessments are completed. Early intervention services for an eligible child and the child’s family may commence before the completion of the evaluation and assessments in rule 281—120.321(34CFR303), if the following conditions are met:

120.345(1) Parental consent is obtained.

120.345(2) An interim IFSP is developed that includes the name of the service coordinator who will be responsible, consistent with subrule 120.344(7), for implementing the interim IFSP and coordinating with other agencies and persons and includes the early intervention services that have been determined to be needed immediately by the child and the child’s family.

120.345(3) Evaluations and assessments are completed within the 45-day timeline in rule 281—120.310(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.346(34CFR303) Responsibility and accountability. Each public agency or EIS provider who has a direct role in the provision of early intervention services is responsible for making a good-faith effort to assist each eligible child in achieving the outcomes in the child’s IFSP. However, Part C of the Act does not require that any public agency or EIS provider be held accountable if an eligible child does not achieve the growth projected in the child’s IFSP, so long as the child’s IFSP was reasonably calculated to confer benefit and was implemented.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.347(256B,34CFR303) Family support mentoring program. Rule 281—41.329(256B,34CFR300) is incorporated herein by this reference.

This rule is intended to implement Iowa Code section 256B.10.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.348 to 120.399 Reserved.

DIVISION VI
PROCEDURAL SAFEGUARDS

281—120.400(34CFR303) General responsibility of lead agency for procedural safeguards. Subject to subrule 120.400(3), the department must:

120.400(1) Establish or adopt the procedural safeguards that satisfy this division, including the provisions on confidentiality in rules 281—120.401(34CFR303) through 281—120.417(34CFR303), parental consent and notice in rules 281—120.420(34CFR303) and 281—120.421(34CFR303), surrogate parents in rule 281—120.422(34CFR303), and dispute resolution procedures in rule 281—120.430(34CFR303);

120.400(2) Ensure the effective implementation of the safeguards by each participating agency (including the lead agency and EIS providers) in the statewide system that is involved in the provision of early intervention services under this chapter; and

120.400(3) Make available to parents an initial copy of the child's early intervention record, at no cost to the parents.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.401(34CFR303) Confidentiality and opportunity to examine records.

120.401(1) General. The state must ensure that the parents of a child referred under this chapter are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with federal and state laws.

120.401(2) Confidentiality procedures. As required under Sections 617(c) and 642 of the Act, rules 281—120.401(34CFR303) through 281—120.417(34CFR303) ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this chapter by the Secretary and by participating agencies, including the department and EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR Part 99. The state must have procedures in effect to ensure that:

a. Participating agencies (including the lead agency and EIS providers) comply with the Part C confidentiality procedures in rules 281—120.401(34CFR303) through 281—120.417(34CFR303); and

b. The parents of infants or toddlers who are referred to or receive services under this chapter are afforded the opportunity to inspect and review all Part C early intervention records about the child and the child's family that are collected, maintained, or used under this chapter, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under this chapter.

120.401(3) Applicability and time frame of procedures. The confidentiality procedures described in subrule 120.401(2) apply to the personally identifiable information of a child and the child's family that:

a. Is contained in early intervention records collected, used, or maintained under this chapter by the department or an EIS provider; and

b. Applies from the point in time when the child is referred for early intervention services under this chapter until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable federal and state laws.

120.401(4) Disclosure of information: transition from Part C to Part B.

a. The department shall disclose to the AEA where the child resides, in accordance with subrule 120.209(2), the following personally identifiable information under the Act:

- (1) A child's name.
- (2) A child's date of birth.
- (3) Parent contact information (including parents' names, addresses, and telephone numbers).

b. The information described in this subrule is needed to enable the department, as well as LEAs and AEAs under Part B of the Act, to identify all children potentially eligible for services under Part B of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.402(34CFR303) Confidentiality. The Secretary takes appropriate action, in accordance with Section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected, maintained, or used by the Secretary and by all lead agencies and EIS providers pursuant to Part C of the Act and consistent with rules 281—120.401(34CFR303) through 281—120.417(34CFR303). Rules 281—120.401(34CFR303) through 281—120.417(34CFR303) ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this chapter by the Secretary and by participating agencies, including state lead agencies and EIS providers, in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and 34 CFR Part 99.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.403(34CFR303) Definitions. The following definitions apply to rules 281—120.402(34CFR303) through 281—120.417(34CFR303) in addition to the definition of “personally identifiable information” in rule 281—120.29(34CFR303) and the definition of “disclosure” in 34 CFR 99.3:

120.403(1) “Destruction” means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under rule 281—120.29(34CFR303).

120.403(2) “Early intervention records” means all records regarding a child that are required to be collected, maintained, or used under Part C of the Act and the rules in this chapter.

120.403(3) “Participating agency” means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement Part C of the Act and the rules in this chapter with respect to a particular child. A participating agency includes the department and EIS providers and any individual or entity that provides any Part C services (including service coordination, evaluations and assessments), but does not include primary referral sources, or public agencies (such as the state Medicaid program or CHIP) or private entities (such as private insurance companies) that act solely as funding sources for Part C services.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.404(34CFR303) Notice to parents. The relevant agency must give notice when a child is referred under Part C of the Act that is adequate to fully inform parents about rule 281—120.402(34CFR303), including:

120.404(1) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

120.404(2) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information;

120.404(3) A description of all the rights of parents and children regarding this information, including their rights under the Part C confidentiality provisions in rules 281—120.401(34CFR303) through 281—120.417(34CFR303); and

120.404(4) A description of the extent that the notice is provided in the native languages of the various population groups in the state.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.405(34CFR303) Access rights.

120.405(1) General. Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency

under this chapter. The agency must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to subrule 120.430(4) and rules 281—120.435(34CFR303) through 281—120.439(34CFR303), and in no case more than ten days after the request is made.

120.405(2) *Inspect and review.* The right to inspect and review early intervention records under this rule includes:

a. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records;

b. The right to request that the participating agency provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

c. The right to have a representative of the parent inspect and review the early intervention records.

120.405(3) *Rule of construction.* An agency may presume that the parent has authority to inspect and review records relating to the parent's child unless the agency has been provided documentation that the parent does not have the authority under applicable state laws governing such matters as custody, foster care, guardianship, separation, and divorce.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.406(34CFR303) Record of access. Each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under Part C of the Act (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.407(34CFR303) Records on more than one child. If any early intervention record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.408(34CFR303) List of types and locations of information. Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.409(34CFR303) Fees for records.

120.409(1) *General.* Each participating agency may charge a fee for copies of records that are made for parents under this chapter if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in subrule 120.409(3).

120.409(2) *No fees to search or retrieve.* A participating agency may not charge a fee to search for or to retrieve information under this chapter.

120.409(3) *Copies of certain documents at no cost.* A participating agency must provide at no cost to parents a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.410(34CFR303) Amendment of records at a parent's request.

120.410(1) *Parent permitted to request amendment.* A parent who believes that information in the early intervention records collected, maintained, or used under this chapter is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information.

120.410(2) *Agency to act on parent's request.* The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

120.410(3) Agency to inform parent of hearing rights. If the participating agency refuses to amend the information in accordance with the request, the participating agency must inform the parent of the refusal and advise the parent of the right to a hearing under rule 281—120.411(34CFR303).
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.411(34CFR303) Opportunity for a hearing. The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing under the procedures in subrule 120.430(4), provided that such hearing procedures satisfy the hearing procedures in rule 281—120.413(34CFR303), or may request a hearing directly under rule 281—120.413(34CFR303).
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.412(34CFR303) Result of hearing.

120.412(1) Information to be amended. If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, the participating agency must amend the information accordingly and so inform the parent in writing.

120.412(2) Information not to be amended. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, the agency must inform the parent of the right to place in the early intervention records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

120.412(3) Explanation placed in records. Any explanation placed in the early intervention records of the child under this rule must be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency. If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.413(34CFR303) Hearing procedures. A hearing held under rule 281—120.411(34CFR303) will be conducted according to the procedures under 34 CFR 99.22.
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.414(34CFR303) Consent prior to disclosure or use.

120.414(1) General. Except as provided in subrule 120.414(2), prior parental consent must be obtained before personally identifiable information is:

a. Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this chapter, subject to subrule 120.414(2); or

b. Used for any purpose other than meeting a requirement of this chapter.

120.414(2) Exceptions. The department or other participating agency may not disclose personally identifiable information, as defined in rule 281—120.29(34CFR303), to any party except participating agencies (including the department and EIS providers) that are part of the state's Part C system without parental consent unless authorized to do so under:

a. Subrules 120.401(1) and 120.209(2); or

b. One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C), which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR 99.31 to this chapter, participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39. In applying these provisions in 34 CFR Part 99 to Part C, the reference to:

(1) 34 CFR 99.30 means subrule 120.414(1);

- (2) “Education records” means early intervention records under subrule 120.403(2);
- (3) “Educational” means early intervention under this chapter;
- (4) “Educational agency or institution” means the participating agency under subrule 120.403(3);
- (5) “School officials and officials of another school or school system” means qualified personnel or service coordinators under this chapter;
- (6) “State and local educational authorities” means the department and EIS providers and grantees; and
- (7) “Student” means child under this chapter.

120.414(3) Policies and procedures regarding refusal to provide consent. The department must provide policies and procedures to be used when a parent refuses to provide consent under this rule (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this chapter), provided that those procedures do not override a parent’s right to refuse consent under rule 281—120.420(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.415(34CFR303) Safeguards. Each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages. One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state’s policies and procedures under rules 281—120.401(34CFR303) through 281—120.417(34CFR303) and 34 CFR Part 99. Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.416(34CFR303) Destruction of information.

120.416(1) Notification to parent. The participating agency must inform parents when personally identifiable information collected, maintained, or used under this chapter is no longer needed to provide services to the child under Part C of the Act, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR Parts 76 and 80.

120.416(2) Mandatory and permissive destruction of personally identifiable information. Subject to subrule 120.416(1), the information must be destroyed at the request of the parents. However, a permanent record of a child’s name, date of birth, parent contact information (including address and telephone number), names of service coordinator(s) and EIS provider(s), and exit data (including year and age upon exit and any programs entered into upon exiting) may be maintained without time limitation.

120.416(3) Rule of construction—“no longer needed to provide services.” For purposes of this rule, “no longer needed to provide services” means that a record is no longer relevant to the provision of Early ACCESS services and is no longer needed for accountability and audit purposes. At a minimum, a record needed for accountability and audit purposes will be retained for five years after completion of the activity for which funds were used.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.417(34CFR303) Enforcement. The department must have in effect the policies and procedures, including sanctions and the right to file a complaint under rules 281—120.432(34CFR303) through 281—120.434(34CFR303), that the department uses to ensure that its policies and procedures, consistent with rules 281—120.401(34CFR303) through 281—120.417(34CFR303), are followed and that the Act and the rules in this chapter are met.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.418 and 120.419 Reserved.

281—120.420(34CFR303) Parental consent and ability to decline services.

120.420(1) General. The relevant agency must ensure parental consent is obtained before:

- a. Administering screening procedures under rule 281—120.320(34CFR303) that are used to determine whether a child is suspected of having a disability;
- b. All evaluations and assessments of a child are conducted under rule 281—120.321(34CFR303);
- c. Early intervention services are provided to a child under this chapter;
- d. Public benefits or insurance or private insurance is used if such consent is required under rule 281—120.520(34CFR303); and
- e. Disclosure of personally identifiable information consistent with rule 281—120.414(34CFR303).

120.420(2) Parent refusal to consent. If a parent does not give consent under paragraph 120.420(1) “a,” “b,” or “c,” the agency must make reasonable efforts to ensure that the parent:

- a. Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that may be available; and
- b. Understands that the child will not be able to receive the evaluation, assessment, or early intervention services unless consent is given.

120.420(3) Due process procedures unavailable. The agency may not use the due process hearing procedures under this chapter to challenge a parent’s refusal to provide any consent that is required under subrule 120.420(1).

120.420(4) Parent rights. The parents of an infant or toddler with a disability:

- a. Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any Early ACCESS service under this chapter at any time, in accordance with state law; and
- b. May decline a service after first accepting it, without jeopardizing other early intervention services under this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.421(34CFR303) Prior written notice and procedural safeguards notice.

120.421(1) General. Prior written notice must be provided to parents a reasonable time before an agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the parents’ infant or toddler or the provision of early intervention services to the infant or toddler with a disability and that infant’s or toddler’s family.

120.421(2) Content of notice. The notice must be in sufficient detail to inform parents about:

- a. The action that is being proposed or refused;
- b. The reasons for taking the action; and
- c. All procedural safeguards that are available under this chapter, including a description of mediation in rule 281—120.431(34CFR303), how to file a state complaint in rules 281—120.432(34CFR303) through 281—120.434(34CFR303) and a due process complaint in the provisions adopted under subrule 120.430(4), and any timelines under those procedures.

120.421(3) Native language.

- a. The notice must be:
 - (1) Written in language understandable to the general public; and
 - (2) Provided in the native language, as defined in rule 281—120.25(34CFR303), of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- b. If the native language or other mode of communication of the parent is not a written language, the public agency or designated EIS provider must take steps to ensure that:
 - (1) The notice is translated orally or by other means to the parent in the parent’s native language or other mode of communication;
 - (2) The parent understands the notice; and
 - (3) There is written evidence that this subrule has been satisfied.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.422(34CFR303) Surrogate parents.

120.422(1) General. The department or other public agency must ensure that the rights of a child are protected when:

- a. No parent (as defined in rule 281—120.27(34CFR303)) can be identified;
- b. The department or AEA, after reasonable efforts, cannot locate a parent; or
- c. The child is a ward of the state under the laws of the state.

120.422(2) Duty of other public agencies.

a. The duty of the AEA under subrule 120.422(1) includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for:

- (1) Determining whether a child needs a surrogate parent; and
- (2) Assigning a surrogate parent to the child.

b. In implementing the provisions under this rule for children who are wards of the state or placed in foster care, the AEA must consult with the public agency that has been assigned care of the child.

120.422(3) Wards of the state. In the case of a child who is a ward of the state, the surrogate parent, instead of being appointed by the AEA under subrule 120.422(2), may be appointed by the judge presiding over the infant's or toddler's case provided that the surrogate parent satisfies subrules 120.422(4) and 120.422(5).

120.422(4) Criteria for selection of surrogate parents.

a. The AEA may select a surrogate parent in any way permitted under state law.

b. The AEA must ensure that a person selected as a surrogate parent:

(1) Is not an employee of the department or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child;

(2) Has no personal or professional interest that conflicts with the interest of the child the person represents; and

(3) Has knowledge and skills that ensure adequate representation of the child.

120.422(5) Nonemployee requirement; compensation. A person who is otherwise qualified to be a surrogate parent under subrule 120.422(4) is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

120.422(6) Surrogate parent responsibilities. The surrogate parent has the same rights as a parent for all purposes under this chapter.

120.422(7) Department responsibility. The department must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.423 to 120.429 Reserved.

281—120.430(34CFR303) State dispute resolution options.

120.430(1) General. Each statewide system must include written procedures for the timely administrative resolution of complaints through mediation, state complaint procedures, and due process hearing procedures, described in subrules 120.430(2) through 120.430(6).

120.430(2) Mediation. The department must make available to parties to disputes involving any matter under this chapter the opportunity for mediation that satisfies rule 281—120.431(34CFR303).

120.430(3) State complaint procedures. The department must adopt written state complaint procedures that satisfy rule 281—120.432(34CFR303) to resolve any state complaints filed by any party regarding any violation of this chapter.

120.430(4) Due process hearing procedures. The department must adopt written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in subrule 120.421(1). The department adopts the Part C due process hearing procedures under Section 639 of the Act.

120.430(5) Status of a child during the pendency of a due process complaint. During the pendency of any proceeding involving a due process complaint under subrule 120.430(4), unless the agency and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the

parents. If the due process complaint under subrule 120.430(4) involves an application for initial services under Part C of the Act, the child must receive those services that are not in dispute.

120.430(6) *Status of a child during the pendency of mediation.* During the pendency of any request for mediation under subrule 120.430(2) and for ten days after any such mediation conference at which no agreement is reached, unless the agency and the parents of the child agree otherwise, the child involved in any such mediation conference will continue to receive the appropriate early intervention services identified in the IFSP in the setting that is consented to by the parents. If the mediation involves an application for initial services under Part C of the Act, the child will receive those services that are not in dispute.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.431(34CFR303) Mediation.

120.431(1) *General.* The department must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this chapter, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.

120.431(2) *Requirements.* The procedures must meet the following provisions:

- a.* The procedures must ensure that the mediation process:
 - (1) Is voluntary on the part of the parties;
 - (2) Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of the Act; and
 - (3) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- b.* The department must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services. The department must select mediators on a random, rotational, or other impartial basis.
- c.* The department must bear the cost of the mediation process, including the costs of meetings described in subrule 120.431(4).
- d.* Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- e.* If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:
 - (1) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - (2) Is signed by both the parent and a representative of the lead agency who has the authority to bind such agency.
- f.* A written, signed mediation agreement under this subrule is enforceable in any state court of competent jurisdiction or in a district court of the United States.

g. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal court or state court of a state receiving assistance under Part C of the Act.

120.431(3) *Impartiality of mediator.*

- a.* An individual who serves as a mediator under this chapter:
 - (1) May not be an employee of the department or an EIS provider that is involved in the provision of early intervention services or other services to the child; and
 - (2) Must not have a personal or professional interest that conflicts with the person's objectivity.
- b.* An individual who otherwise qualifies as a mediator is not an employee of the department or an early intervention provider solely because the individual is paid by the agency or provider to serve as a mediator.

120.431(4) *Meeting to encourage mediation.* The department may establish procedures to offer to parents and EIS providers that choose not to use the mediation process an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:

a. Who is under contract with an appropriate alternative dispute resolution entity or a parent training and information center or community parent resource center in the state established under Section 671 or 672 of the Act; and

b. Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.432(34CFR303) Adoption of state complaint procedures. The state complaint procedures in rules 281—41.151(256B,34CFR300) through 281—41.153(256B,34CFR300), inclusive, are made applicable to this chapter by reference.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.433 and 120.434 Reserved.

281—120.435(34CFR303) Appointment of an administrative law judge.

120.435(1) *Qualifications and duties.* Whenever a due process complaint is received under subrule 120.430(4), the department will appoint an impartial administrative law judge (ALJ) to implement the complaint resolution process in this chapter. The person must:

a. Have knowledge about the provisions of Part C of the Act and of this chapter and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and

b. Perform the following duties:

- (1) Listen to the presentation of relevant viewpoints about the due process complaint;
- (2) Examine all information relevant to the issues;
- (3) Seek to reach a timely resolution of the due process complaint; and
- (4) Provide a record of the proceedings, including a written decision.

120.435(2) *Definition of “impartial.”*

a. “Impartial” means that the administrative law judge appointed to implement the due process hearing under this chapter:

(1) Is not an employee of the department or other agency or EIS provider involved in the provision of early intervention services or care of the child; and

(2) Does not have a personal or professional interest that would conflict with the ALJ’s objectivity in implementing the process.

b. A person who otherwise qualifies under this subrule is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.436(34CFR303) Parental rights in due process hearing proceedings.

120.436(1) *General.* The department must ensure that the parents of a child referred to or receiving Part C services are afforded the rights in subrule 120.436(2) in the due process hearing carried out under subrule 120.430(4).

120.436(2) *Rights of parents.* Any parent involved in a due process hearing has the right to:

a. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities;

b. Present evidence and confront, cross-examine, and compel the attendance of witnesses;

c. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;

d. Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and

e. Receive a written copy of the findings of fact and decisions at no cost to the parent.

120.436(3) *Other party rights.* Any public agency or EIS provider that is a party to a due process hearing under subrule 120.430(4) has each of the rights listed in subrule 120.436(2).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.437(34CFR303) Convenience of hearings and timelines.

120.437(1) *Time and place.* Any due process hearing conducted under this chapter must be carried out at a time and place that is reasonably convenient to the parents.

120.437(2) *Timeline for ALJ decision.* The department must ensure that, not later than 30 days after the receipt of a parent's due process complaint, the due process hearing required under this chapter is completed and a written decision mailed to each of the parties.

120.437(3) *Extension of ALJ timeline.* An ALJ may grant specific extensions of time beyond the period set out in subrule 120.437(2) at the request of either party.
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.438(34CFR303) *Civil action.* Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in state or federal court under Section 639(a)(1) of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.439(34CFR303) *Limitation of actions.*

120.439(1) *Limitation: due process complaints.* A parent, agency, or EIS provider must request an impartial hearing on the due process complaint within two years of the date the parent, agency, or provider knew or should have known about the alleged action that forms the basis of the due process complaint.

120.439(2) *Exceptions to timeline.* The timeline described in subrule 120.439(1) does not apply to a parent if the parent was prevented from filing a due process complaint due to either of the following:

a. Specific misrepresentations by an agency or EIS provider that it had resolved the problem forming the basis of the due process complaint; or

b. The agency's or EIS provider's withholding of information from the parent that was required under this chapter to be provided to the parent.

120.439(3) *Limitation: civil action.* The party bringing the civil action under rule 281—120.438(34CFR303) shall have 90 days from the date of the decision of the administrative law judge to file a civil action.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.440(34CFR303) *Rule of construction.* Nothing in this chapter restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of children with disabilities, except that, before the filing of a civil action under these laws seeking relief that is also available under Section 639 of the Act, the procedures under this chapter must be exhausted to the same extent as would be required had the action been brought under Section 639 of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.441(34CFR303) *Attorney fees.* Reasonable attorney fees are available to a prevailing party (parent or, in certain circumstances, public agency or EIS provider) in a due process hearing or a mediation conference to the extent those fees are available under the Act. No fees are available under the state complaint procedure in subrule 120.430(3).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.442 to 120.448 Reserved.

281—120.449(34CFR303) *State enforcement mechanisms.* Notwithstanding subrule 120.431(2), which provides for judicial enforcement of a written agreement reached as a result of a mediation, there is nothing in this chapter that would prevent the state from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a state court of competent jurisdiction or in a district court of the United States.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.450 to 120.499 Reserved.

DIVISION VII
USE OF FUNDS; PAYOR OF LAST RESORT**281—120.500(34CFR303) Use of funds, payor of last resort, and system of payments.**

120.500(1) *Statewide system.* The statewide system must include written policies and procedures that satisfy the following:

- a. Use of funds provisions in rule 281—120.501(34CFR303); and
- b. Payor of last resort provisions in rules 281—120.510(34CFR303) through 281—120.521(34CFR303) (regarding the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of the Act within the state).

120.500(2) *System of payments.* The state may establish, consistent with subrules 120.13(1) and 120.203(2), a system of payments for early intervention services under Part C of the Act, including a schedule of sliding fees or cost participation fees (such as copayments, premiums, or deductibles) required to be paid under federal, state, local, or private programs of insurance or benefits for which the infant or toddler with a disability or the child's family is enrolled, that satisfies rules 281—120.520(34CFR303) and 281—120.521(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.501(34CFR303) Permissive use of funds by the department. Consistent with rules 281—120.120(34CFR303) through 281—120.122(34CFR303) and 281—120.220(34CFR303) through 281—120.226(34CFR303), the department may use funds under this chapter for activities or expenses that are reasonable and necessary for implementing Early ACCESS, including funds:

120.501(1) For direct early intervention services for infants and toddlers with disabilities and their families under this chapter that are not otherwise funded through other public or private sources (subject to rules 281—120.510(34CFR303) through 281—120.521(34CFR303));

120.501(2) To expand and improve services for infants and toddlers with disabilities and their families under this chapter that are otherwise available; and

120.501(3) In any state that does not provide services under 34 CFR 303.204 for at-risk infants and toddlers, as defined in rule 281—120.5(34CFR303), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, services, and personnel for the purposes of:

- a. Identifying and evaluating at-risk infants and toddlers;
- b. Making referrals for the infants and toddlers identified and evaluated under paragraph 120.501(3)“a”; and
- c. Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.502 to 120.509 Reserved.

281—120.510(34CFR303) Payor of last resort.

120.510(1) *Nonsubstitution of funds.* Except as provided in subrule 120.510(2), funds under this chapter may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including any medical program administered by the Department of Defense, but for the enactment of Part C of the Act. Therefore, funds under this chapter may be used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other federal, state, local, or private source (subject to rules 281—120.520(34CFR303) and 281—120.521(34CFR303)).

120.510(2) *Interim payments—reimbursement.* If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, funds under Part C of the Act may be used to pay the provider of services (for services and functions authorized under this chapter, including health services, as defined in rule 281—120.16(34CFR303) (but not medical

services); functions of the child find system described in rules 281—120.115(34CFR303) through 281—120.117(34CFR303) and rules 281—120.301(34CFR303) through 281—120.320(34CFR303); and evaluations and assessments in rule 281—120.321(34CFR303)), pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

120.510(3) *Nonreduction of benefits.* Nothing in this chapter may be construed to permit a state to reduce medical or other assistance available in the state or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. 701 et seq. (SSA) (relating to maternal and child health) or Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including Section 1903(a) of the SSA regarding medical assistance for services furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to Part C of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.511(34CFR303) Methods to ensure the provision of, and financial responsibility for, Early ACCESS services.

120.511(1) *General.* The state must ensure that it has in place methods for interagency coordination. Under these methods, the governor must ensure that the interagency agreement or other method for interagency coordination is in effect between the department and each signatory agency in order to ensure:

- a. The provision of, and establishing financial responsibility for, early intervention services provided under this chapter; and
- b. Such services are consistent with the requirement in Section 635 of the Act and the state's application under Section 637 of the Act, including the provision of such services during the pendency of any dispute between state agencies.

120.511(2) *Methods.* The methods in subrule 120.511(1) must satisfy this rule and be set forth in one of the following:

- a. State law or rule;
- b. Signed interagency and intra-agency agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency (or entity within the agency); or
- c. Other appropriate written methods determined by the governor, or the governor's designee, and approved by the Secretary through the review and approval of the state's application.

120.511(3) *Procedures for resolving disputes.*

a. Each method must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service or disputes about other matters related to Early ACCESS. Those procedures must include a mechanism for resolution of disputes within agencies and for the governor, governor's designee, or the department to make a final determination for interagency disputes, which determination must be binding upon the agencies involved.

b. The method must:

- (1) Permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and
- (2) Include the process that the department will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

c. If, during the department's resolution of the dispute, the governor, governor's designee, or department determines that the assignment of financial responsibility under this rule was inappropriately made:

- (1) The governor, governor's designee, or department must reassign the financial responsibility to the appropriate agency; and
- (2) The department must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.

120.511(4) *Delivery of services in a timely manner.* The methods adopted by the state under this rule must:

a. Include a mechanism to ensure that no services that a child is entitled to receive under this chapter are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and

b. Be consistent with the written funding policies adopted by the state under this division and include any provisions the state has adopted under rule 281—120.520(34CFR303) regarding the use of insurance to pay for Part C services.

120.511(5) Additional components. Each method must include any additional components necessary to ensure effective cooperation and coordination among, and the department's general supervision (including monitoring) of, EIS providers (including all public agencies) involved in Early ACCESS.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.512 to 120.519 Reserved.

281—120.520(34CFR303) Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services.

120.520(1) Use of public benefits or public insurance to pay for Early ACCESS services.

a. The state may not use the public benefits or insurance of a child or parent to pay for Part C services unless the state provides written notification, consistent with paragraph 120.521(1)“c,” to the child's parents, and the state meets the no-cost protections identified in paragraph 120.520(1)“b.”

b. With regard to the state's using the public benefits or insurance of a child or parent to pay for Part C services, the state:

(1) May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;

(2) Must obtain consent, consistent with rule 281—120.7(34CFR303) and subrule 120.420(1), to use a child's or parent's public benefits or insurance to pay for Part C services if that use would:

1. Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;

2. Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;

3. Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or

4. Risk loss of eligibility for the child or that child's parents for home- and community-based waivers based on aggregate health-related expenditures.

(3) If the parent does not provide consent under paragraph 120.520(1)“b,” the state must still make available those Part C services on the IFSP to which the parent has provided consent.

c. Prior to the state's using a child's or parent's public benefits or insurance to pay for Part C services, the state must provide written notification to the child's parents. The notification must include:

(1) A statement that parental consent must be obtained under rule 281—120.414(34CFR303), if that rule applies, before the department or EIS provider discloses, for billing purposes, a child's personally identifiable information to the department of health and human services, the state public agency responsible for the administration of the state's public benefits or insurance program (e.g., Medicaid);

(2) A statement of the no-cost protection provisions in subrule 120.520(1) and that if the parent does not provide the consent under that subrule, the agency must still make available those Part C services on the IFSP for which the parent has provided consent;

(3) A statement that the parents have the right under rule 281—120.414(34CFR303), if that rule applies, to withdraw their consent to disclosure of personally identifiable information to the department of health and human services, the state public agency responsible for the administration of the state's public benefits or insurance program (e.g., Medicaid) at any time; and

(4) A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as copayments or deductibles, or the required use of private insurance as the primary insurance).

d. If a state requires a parent to pay any costs that the parent would incur as a result of the state's using a child's or parent's public benefits or insurance to pay for Part C services (such as copayments or deductibles, or the required use of private insurance as the primary insurance), those costs must be identified in the state's system of payments policies under rule 281—120.521(34CFR303) and included in the notification provided to the parent under paragraph 120.520(1) "c"; otherwise, the state cannot charge those costs to the parent.

120.520(2) Use of private insurance to pay for Part C services.

a. The state may not use the private insurance of a parent of an infant or toddler with a disability to pay for Part C services unless the parent provides parental consent, consistent with rule 281—120.7(34CFR303) and subrule 120.420(1), to use private insurance to pay for Part C services for the parent's child or the state meets one of the exceptions in paragraph 120.520(2) "d." This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. Parental consent must be obtained:

(1) When an agency or EIS provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and

(2) Each time consent for services is required under subrule 120.420(1) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

b. If a state requires a parent to pay any costs that the parent would incur as a result of the state's use of private insurance to pay for early intervention services (such as copayments, premiums, or deductibles), those costs must be identified in the state's system of payments policies under rule 281—120.521(34CFR303); otherwise, the state may not charge those costs to the parent.

c. When obtaining parental consent required under paragraph 120.520(2) "a" or initially using benefits under a child's or parent's private insurance policy to pay for an early intervention service under paragraph 120.520(2) "d," the state must provide to the parent a copy of the state's system of payments policies that identifies the potential costs that the parent may incur when the parent's private insurance is used to pay for early intervention services under this chapter (such as copayments, premiums, or deductibles or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).

d. The parental consent requirements in paragraphs 120.520(2) "a" through "c" do not apply if the state has enacted a state statute regarding private health insurance coverage for early intervention services under Part C of the Act that expressly provides that:

(1) The use of private health insurance to pay for Part C services cannot count towards or result in a loss of benefits due to the annual or lifetime health insurance coverage caps for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy;

(2) The use of private health insurance to pay for Part C services cannot negatively affect the availability of health insurance to the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy, and health insurance coverage may not be discontinued for these individuals due to the use of the health insurance to pay for services under Part C of the Act; and

(3) The use of private health insurance to pay for Part C services cannot be the basis for increasing the health insurance premiums of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy.

e. If the state has enacted a state statute that satisfies paragraph 120.520(2) "d," regarding the use of private health insurance coverage to pay for early intervention services under Part C of the Act, the state may reestablish a new baseline of state and local expenditures under subrule 120.225(2) in the next federal fiscal year following the effective date of the statute.

120.520(3) Inability to pay. If a parent or family of an infant or toddler with a disability is determined unable to pay under the state's definition of inability to pay under subrule 120.521(1) and does not provide

consent under paragraphs 120.520(2) “a” and “b,” the lack of consent may not be used to delay or deny any services under this chapter to that child or family.

120.520(4) Proceeds or funds from public insurance or benefits or from private insurance.

a. Proceeds or funds from public insurance or benefits or from private insurance are not treated as program income for purposes of 34 CFR 80.25.

b. If the state receives reimbursements from federal funds (e.g., Medicaid reimbursements attributable directly to federal funds) for services under Part C of the Act, those funds are considered neither state nor local funds under subrule 120.225(2).

c. If the state spends funds from private insurance for services under this chapter, those funds are considered neither state nor local funds under rule 281—120.225(34CFR303).

120.520(5) Funds received from a parent or family member under the state’s system of payments. Funds received by the state from a parent or family member under the state’s system of payments established under rule 281—120.521(34CFR303) are considered program income under 34 CFR 80.25. These funds:

a. Are not deducted from the total allowable costs charged under Part C of the Act (as set forth in 34 CFR 80.25(g)(1));

b. Must be used for the state’s Part C early intervention service program, consistent with 34 CFR 80.25(g)(2); and

c. Are considered neither state nor local funds under subrule 120.225(2).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.521(34CFR303) System of payments and fees.

120.521(1) General. If a state elects to adopt a system of payments in subrule 120.500(2), the state’s system of payments policies must be in writing and specify which functions or services, if any, are subject to the system of payments (including any fees charged to the family as a result of using one or more of the family’s public insurance or benefits or private insurance), and include:

a. The payment system and schedule of sliding or cost participation fees that may be charged to the parent for early intervention services under this chapter;

b. The basis and amount of payments or fees;

c. The state’s definition of ability to pay (including its definition of income and family expenses, such as extraordinary medical expenses), its definition of inability to pay, and when and how the state makes its determination of the ability or inability to pay;

d. An assurance that:

(1) Fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (including those services identified under this subrule and subrules 120.521(2) and 120.521(3));

(2) The inability of the parents of an infant or toddler with a disability to pay for services will not result in a delay or denial of services under this chapter to the child or the child’s family such that, if the parent or family meets the state’s definition of inability to pay, the infant or toddler with a disability must be provided all Part C services at no cost;

(3) Families will not be charged any more than the actual cost of the Part C service (factoring in any amount received from other sources for payment for that service); and

(4) Families with public insurance or benefits or private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance;

e. Provisions stating that the failure to provide the requisite income information and documentation may result in a charge of a fee on the fee schedule and specify the fee to be charged; and

f. Provisions that permit, but do not require, the department or other relevant agency to use Part C or other funds to pay for costs such as the premiums, deductibles, or copayments.

120.521(2) Functions not subject to fees. The following are required functions that must be carried out at public expense, and for which no fees may be charged to parents:

a. Implementing the child find requirements in rules 281—120.301(34CFR303) through 281—120.303(34CFR303).

b. Evaluation and assessment, in accordance with rule 281—120.320(34CFR303), and the functions related to evaluation and assessment in subrule 120.13(2).

c. Service coordination services, as defined in subrule 120.13(2) and rule 281—120.33(34CFR303).

d. Administrative and coordinative activities related to:

(1) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with rules 281—120.342(34CFR303) through 281—120.345(34CFR303); and

(2) Implementation of the procedural safeguards in Division VI of this chapter and the other components of the statewide system of early intervention services in Division V of this chapter and this division.

120.521(3) *FAPE mandates or use of funds under Part B of the Act to serve children under age three.* If the state has in effect a state law requiring the provision of FAPE for, or uses Part B funds to serve, an infant or toddler with a disability under the age of three (or any subset of infants and toddlers with disabilities under the age of three), the state may not charge the parents of the infant or toddler with a disability for any services (e.g., physical or occupational therapy) under this chapter that are part of FAPE for that infant or toddler and the child's family, and those FAPE services must meet the provisions of both Parts B and C of the Act.

120.521(4) *Family fees.*

a. Fees or costs collected from a parent or the child's family to pay for early intervention services under the state's system of payments are program income under 34 CFR 80.25. The state may add this program income to its Part C grant funds, rather than deducting the program income from the amount of the state's Part C grant. Any fees collected must be used for the purposes of the grant under Part C of the Act.

b. Fees collected under a system of payments are considered neither state nor local funds under subrule 120.225(2).

120.521(5) *Procedural safeguards.*

a. The state's system of payments must include written policies to inform parents that a parent who wishes to contest the imposition of a fee, or the state's determination of the parent's ability to pay, may do one of the following:

(1) Participate in mediation in accordance with rule 281—120.431(34CFR303).

(2) Request a due process hearing under rule 281—120.436(34CFR303).

(3) File a state complaint under rule 281—120.434(34CFR303).

(4) Use any other procedure established by the state for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under this chapter, including the right to pursue, in a timely manner, the redress options described in this subrule.

b. The state must inform parents of these procedural safeguard options by either:

(1) Providing parents with a copy of the state's system of payments policies when obtaining consent for provision of early intervention services under subrule 120.420(1); or

(2) Including this information with the notice provided to parents under rule 281—120.421(34CFR303).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.522 to 120.599 Reserved.

DIVISION VIII
STATE INTERAGENCY COORDINATING COUNCIL

281—120.600(34CFR303) Establishment of council.

120.600(1) *General.* The state establishes a state interagency coordinating council, as defined in rule 281—120.8(34CFR303).

120.600(2) *Appointment.* The council must be appointed by the governor. The governor must ensure that the membership of the council reasonably represents the population of the state.

120.600(3) Chairperson. The governor must designate a member of the council to serve as the chairperson of the council or delegate that responsibility to the members of the council. Any member of the council who is a representative of the lead agency designated under rule 281—120.201(34CFR303) may not serve as the chairperson of the council.

120.600(4) Name of council. The council established by this division shall be known as the Iowa council for Early ACCESS (council).
[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.601(34CFR303) Composition.

120.601(1) General. The council must be composed as follows:

a. At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one parent member must be a parent of an infant or toddler with a disability or a child with a disability aged 6 years or younger.

b. At least 20 percent of the members must be public or private providers of early intervention services.

c. At least one member must be from the state legislature.

d. At least one member must be involved in personnel preparation.

e. At least one member must:

(1) Be from each of the state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and

(2) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

f. At least one member must:

(1) Be from the unit of the department responsible for preschool services to children with disabilities; and

(2) Have sufficient authority to engage in policy planning and implementation on behalf of the department.

g. At least one member must be from the agency responsible for the state Medicaid program and CHIP.

h. At least one member must be from a Head Start or Early Head Start agency or program in the state.

i. At least one member must be from a state agency responsible for child care.

j. At least one member must be from the agency responsible for the state regulation of private health insurance.

k. At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.

l. At least one member must be a representative from the state child welfare agency responsible for foster care.

m. At least one member must be from the state agency responsible for children's mental health.

120.601(2) Members serving more than one role. The governor may appoint one member to represent more than one program or agency listed in paragraphs 120.601(1) "g" through "m."

120.601(3) Additional members permitted. The council may include other members selected by the governor, including a representative from the Bureau of Indian Education (BIE) or, where there is no school operated or funded by the BIE in the state, from the Indian Health Service or the tribe or tribal council.

120.601(4) Limitation on voting: conflict of interest. No member of the council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under state law.

120.601(5) Executive committee; other committees. The executive committee shall consist of the council chairperson; the vice-chairperson; at least two council members, one of whom is a parent; and a council representative from each of the signatory agencies. The department's Early ACCESS program

coordinator shall be an ex officio member of the executive committee. The executive committee is responsible for initially reviewing and discussing information and issues that will be addressed by the full council; establishing the framework for overall council business, including the calendar of meetings and the agenda for council meetings; and facilitating the implementation of the interagency agreement among the signatory agencies. The council may establish or dissolve other standing or ad hoc committees from time to time and in the furtherance of its work.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.602(34CFR303) Meetings.

120.602(1) *Minimum number of meetings.* The council will meet, at a minimum, on a quarterly basis, and in such places as it determines necessary.

120.602(2) *Requirements for meetings.* The meetings must:

- a. Be publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend;
- b. To the extent appropriate, be open and accessible to the general public; and
- c. As needed, provide for interpreters for persons who are deaf or hard of hearing and other necessary services for council members and participants. The council may use funds under this chapter to pay for those services.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.603(34CFR303) Use of funds by the council.

120.603(1) *General.* Subject to the approval by the governor, the council may use funds under this chapter to:

- a. Conduct hearings and forums;
- b. Reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives);
- c. Pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business;
- d. Hire staff; and
- e. Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of the Act.

120.603(2) *No compensation for members.* Except as provided in subrule 120.603(1), council members must serve without compensation from funds available under Part C of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.604(34CFR303) Functions of the council; required duties.

120.604(1) *Advising and assisting the department.* The council must advise and assist the department in the performance of the department's responsibilities in Section 635(a)(10) of the Act, including:

- a. Identification of sources of fiscal and other support for services for early intervention service programs under Part C of the Act;
- b. Assignment of financial responsibility to the appropriate agency;
- c. Promotion of methods (including use of intra-agency and interagency agreements) for intra-agency and interagency collaboration regarding child find under rules 281—120.115(34CFR303) and 281—120.302(34CFR303), monitoring and enforcement under rules 281—120.120(34CFR303) and 281—120.700(34CFR303) through 281—120.708(34CFR303), financial responsibility and provision of early intervention services under rules 281—120.202(34CFR303) and 281—120.511(34CFR303), and transition under rule 281—120.209(34CFR303); and
- d. Preparation of applications under this chapter and amendments to those applications.

120.604(2) *Advising and assisting on transition.* The council must advise and assist the department regarding the transition of toddlers with disabilities to preschool and other appropriate services.

120.604(3) *Annual report to the governor and to the Secretary.*

- a. The council must:

(1) Prepare and submit an annual report to the governor and to the Secretary on the status of early intervention service programs for infants and toddlers with disabilities and their families under Part C of the Act operated within the state; and

(2) Submit the report to the Secretary by a date that the Secretary establishes.

b. Each annual report must contain the information required by the Secretary for the year for which the report is made.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.605(34CFR303) Authorized activities by the council. The council may carry out the following activities:

120.605(1) Advise and assist the department regarding the provision of appropriate services for children with disabilities from birth through age five.

120.605(2) Advise appropriate agencies in the state with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the state.

120.605(3) Coordinate and collaborate with the state advisory council on early childhood education and care for children, as described in Section 642B(b)(1)(A)(i) of the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other state interagency early learning initiatives, as appropriate.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.606 to 120.699 Reserved.

DIVISION IX
FEDERAL AND STATE MONITORING AND ENFORCEMENT;
REPORTING; AND ALLOCATION OF FUNDS

281—120.700(34CFR303) State monitoring and enforcement.

120.700(1) General. The department must:

- a.* Monitor the implementation of this chapter;
- b.* Make determinations annually about the performance of each EIS program, using the categories identified in subrule 120.703(2);
- c.* Enforce this chapter consistent with rule 281—120.704(34CFR303), using appropriate enforcement mechanisms listed therein; and
- d.* Report annually on the performance of the state and of each EIS program under this chapter as provided in rule 281—120.702(34CFR303).

120.700(2) Primary focus of monitoring activity. The primary focus of the state's monitoring activities must be on:

- a.* Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and
- b.* Ensuring that EIS programs meet the program requirements under Part C of the Act, with a particular emphasis on those requirements that are most closely related to improving early intervention results for infants and toddlers with disabilities.

120.700(3) Indicators of performance and compliance. As a part of its responsibilities under subrule 120.700(1), the state must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in subrule 120.700(4), and the indicators established by the Secretary for the state performance plans.

120.700(4) Monitoring; priority areas. The department must monitor each EIS program located in the state, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

- a.* Early intervention services in natural environments.
- b.* State exercise of general supervision, including child find, effective monitoring, mediation, and a system of transition services as defined in Section 637(a)(9) of the Act.

120.700(5) *Correction of noncompliance.* In exercising its monitoring responsibilities under subrule 120.700(4), the state must ensure that when it identifies noncompliance with this chapter by EIS programs and providers, the noncompliance is corrected as soon as possible and in no case later than one year after the state's identification of the noncompliance.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.701(34CFR303) State performance plans and data collection.

120.701(1) *General.* The state must have in place a performance plan that satisfies Section 616 of the Act; is approved by the Secretary; and includes an evaluation of the state's efforts to implement the requirements and purposes of Part C of the Act, a description of how the state will improve implementation, and measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in 34 CFR 303.700(d).

120.701(2) *Review of state performance plan.* The state must review its state performance plan at least once every six years and submit any amendments to the Secretary.

120.701(3) *Data collection.*

a. The state must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the state performance plans.

b. If the Secretary permits states to collect data on specific indicators through state monitoring or sampling, and the state collects data for a particular indicator through state monitoring or sampling, the state must collect and report data on those indicators for each EIS program at least once during the six-year period of a state performance plan.

c. Nothing in Part C of the Act or this chapter may be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part C of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.702(34CFR303) State use of targets and reporting.

120.702(1) *General.* The state must use the targets established in the state's performance plan under rule 281—120.701(34CFR303) and the priority areas described in subrule 120.700(4) to analyze the performance of each EIS program in implementing Part C of the Act.

120.702(2) *Public reporting and privacy.*

a. Public report. The state must:

(1) Report annually to the public on the performance of each EIS program located in the state on the targets in the state's performance plan as soon as practicable but no later than 120 days following the state's submission of its annual performance report to the Secretary under paragraph 120.702(2) "b"; and

(2) Make the state's performance plan under subrule 120.701(1), annual performance reports under this subrule, and the state's annual reports on the performance of each EIS program under this subrule available through public means, including by posting on the department's website, distribution to the media, and distribution to EIS programs.

(3) If the state, in satisfying this subrule, collects data through state monitoring or sampling, the state must include in its public report on EIS programs under this subrule the most recently available performance data on each EIS program and the date the data were collected.

b. State performance report. The state must report annually to the Secretary on the performance of the state under the state's performance plan.

c. Privacy. The state must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.703(34CFR303) Department review and determination regarding EIS program performance.

120.703(1) Review. The department shall annually review the performance of each EIS provider, including but not limited to data on indicators identified in the state's performance plan, information obtained through monitoring visits, and any other public information made available.

120.703(2) Determination. Based on the information provided in subrule 120.703(1) to the department, the department shall determine if each EIS provider:

- a. Meets the requirements and purposes of Part C of the Act;
- b. Needs assistance in implementing the requirements of Part C of the Act;
- c. Needs intervention in implementing the requirements of Part C of the Act; or
- d. Needs substantial intervention in implementing the requirements of Part C of the Act.

120.703(3) Notice and opportunity for a hearing. For determinations made under paragraphs 120.703(2) "c" and "d," the department shall provide reasonable notice of its determination and may, in its sound discretion, grant an informal hearing to the EIS provider; however, if withholding of funds is a remedy associated with any particular determination, the department shall provide a hearing under rule 281—120.705(34CFR303). Under any hearing granted under this subrule or rule 281—120.705(34CFR303), the EIS provider must demonstrate that the department abused its discretion in making the determination described in subrule 120.703(2).

120.703(4) Criteria for determinations. The department shall develop criteria for making the determinations required by subrule 120.703(2).

120.703(5) Adjustment or variance of determination. In making the determination required by subrule 120.703(2), the department in its discretion may adjust or vary from the criteria described in subrule 120.703(4) based on unusual, unanticipated, or extraordinary aggravating or mitigating measures, on a case-by-case basis.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.704(34CFR303) Enforcement.

120.704(1) Needs assistance. If the department determines, for two consecutive years, that an EIS provider needs assistance under paragraph 120.703(2) "b" in implementing the requirements of Part C of the Act, the department shall take one or more of the following actions:

a. Advise the EIS provider of available sources of technical assistance that may help the EIS provider address the areas in which the provider needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the U.S. Department of Education, other federal agencies, technical assistance providers approved by the Secretary or the department, and other federally funded nonprofit agencies, and require the EIS provider to work with appropriate entities. This technical assistance may include:

- (1) The provision of advice by experts to address the areas in which the EIS provider needs assistance, including explicit plans for addressing the areas of concern within a specified period of time;
- (2) Assistance in identifying and implementing professional development, early intervention service provision strategies, and methods of early intervention service provision that are based on scientifically based research;
- (3) Designating and using administrators, service coordinators, service providers, and other personnel from the EIS program to provide advice, technical assistance, and support; and
- (4) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance.

b. Identify the EIS provider as a high-risk grantee and impose special conditions on the provider's grant under this chapter.

120.704(2) Needs intervention. If the department determines, for three or more consecutive years, that an EIS provider needs intervention under paragraph 120.703(2) "c" in implementing the requirements of Part C of the Act, the following apply:

- a. The department may take any of the actions described in subrule 120.704(1).
- b. The department shall take one or both of the following actions:

(1) Require the EIS provider to prepare a corrective action plan or improvement plan if the department determines that the EIS provider should be able to correct the problem within one year.

(2) Withhold, in whole or in part, any further payments to the EIS provider under Part C of the Act.

120.704(3) Needs substantial intervention. Notwithstanding subrules 120.704(1) and 120.704(2), at any time that the department determines that an EIS provider needs substantial intervention in implementing the requirements of Part C of the Act or that there is a substantial failure to comply with any requirement under Part C of the Act by an EIS program, the department shall withhold, in whole or in part, any further payments to the EIS provider under Part C of the Act. In addition, the department may refer the matter to appropriate authorities, which include but are not limited to the Iowa department of justice or the auditor of state.

120.704(4) Rule of construction. The listing of specific enforcement mechanisms in this rule shall not be construed to limit the enforcement mechanisms at the department's disposal in its enforcement of this rule or any other rule in this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.705(34CFR303) Withholding funds.

120.705(1) General. As a consequence of a determination made under rule 281—120.703(34CFR303) or enforcement of any provision of Part C of the Act and this chapter, the department may withhold some or all of the funds from an EIS provider or a program or service of an EIS provider.

120.705(2) Hearing. If the department intends to withhold funds, it shall provide notice and an opportunity for a hearing to an EIS provider. If a hearing is requested, the department may suspend payments to the EIS provider, suspend the authority of the EIS provider to obligate funds, or both, until a decision is made after the hearing. A hearing under this rule, which shall not be a contested case under Iowa Code chapter 17A, shall be requested within 30 days of notice of withholding by requesting a hearing before the director of the Iowa department of education or the director's designee. The presiding officer at the hearing shall consider the purposes of Part C of the Act and of this chapter and shall determine whether the state abused its discretion in its decision under subrule 120.705(1).

120.705(3) Reinstatement. If the EIS provider substantially rectifies the condition that prompted the initial withholding under subrule 120.705(1), then the department may reinstate payments. If an EIS provider disagrees with the department's decision that the provider has not substantially rectified the condition that prompted the initial withholding under subrule 120.705(1), the provider may request a hearing under subrule 120.705(2).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.706(34CFR303) Public attention. Whenever the state receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to 34 CFR §303.704, the state must, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to Section 616(e) of the Act and 34 CFR §303.704 to the attention of the public within the state, including by posting the notice on the department's website and distributing the notice to the media and to EIS programs.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.707 Reserved.

281—120.708(34CFR303) State enforcement. Nothing in this division may be construed to restrict the state from utilizing any other authority available to it to monitor and enforce the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.709(34CFR303) State consideration of other state or federal laws. In making the determinations required by subrule 120.703(2), in taking actions pursuant to rule 281—120.704(34CFR303), and in taking any other action under this chapter, the department may consider whether any agency or provider has complied with any other applicable state or federal law,

including education law or disability law, or with any corrective action ordered by any competent authority for violation of such a law.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.710 to 120.719 Reserved.

281—120.720(34CFR303) Data requirements—general.

120.720(1) General. The department must annually report to the Secretary and to the public on the information required by Section 618 of the Act at the times specified by the Secretary.

120.720(2) Manner of reporting. The department must submit the report to the Secretary in the manner prescribed by the Secretary.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.721(34CFR303) Annual report of children served—report requirement.

120.721(1) Date of count. For the purposes of the annual report required by Section 618 of the Act and rule 281—120.720(34CFR303), the department must count and report the number of infants and toddlers receiving early intervention services on any date between October 1 and December 1 of each year.

120.721(2) Information in report. The report must include:

a. The number and percentage of infants and toddlers with disabilities in the state, by race, gender, and ethnicity, who are receiving early intervention services (and include in this number any children reported to the department by tribes, tribal organizations, and consortia under 34 CFR 303.731(e)(1));

b. The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who, from birth through age two, stopped receiving early intervention services because of program completion or for other reasons; and

c. The number and percentage of at-risk infants and toddlers (as defined in Section 632(1) of the Act), by race and ethnicity, who are receiving early intervention services under Part C of the Act.

120.721(3) Reserved.

120.721(4) Dispute prevention and resolution data. The report shall include the number of due process complaints filed under Section 615 of the Act, the number of hearings conducted and the number of mediations held, and the number of settlement agreements reached through such mediations.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.722(34CFR303) Data reporting.

120.722(1) Protection of identifiable data. The data described in Section 618(a) of the Act and in rule 281—120.721(34CFR303) must be publicly reported by the state in a manner that does not result in disclosure of data identifiable to individual children.

120.722(2) Sampling. If permitted by the Secretary, the state may obtain data in Section 618(a) of the Act through sampling.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.723(34CFR303) Annual report of children served—certification. The department must include in its report a certification signed by an authorized official of the department that the information provided under rule 281—120.721(34CFR303) is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.724(34CFR303) Annual report of children served—other responsibilities of the department. In addition to meeting the requirements of rules 281—120.721(34CFR303) through 281—120.723(34CFR303), the department must conduct its own child count or use EIS providers to complete its child count. If the department uses EIS providers to complete its child count, then the department must establish procedures to be used by EIS providers in counting the number of children with disabilities receiving early intervention services; establish dates by which those EIS providers must report to the department to ensure that the state complies with subrule 120.721(1); obtain

certification from each EIS provider that an unduplicated and accurate count has been made; aggregate the data from the count obtained from each EIS provider and prepare the report required under rules 281—120.721(34CFR303) through 281—120.723(34CFR303); and ensure that documentation is maintained to enable the department and the Secretary to audit the accuracy of the count.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.725 to 120.800 Reserved.

DIVISION X
OTHER PROVISIONS

281—120.801(34CFR303) Early ACCESS system—state level.

120.801(1) *Lead agency.* The Iowa department of education was appointed lead agency on June 24, 1987. Responsibilities of the lead agency include:

a. Developing and implementing policies and procedures regarding the types of information to be gathered and the policies and parameters for sharing of information across agencies and programs, as well as such information that might be necessary for an annual report to the governor and the U.S. Department of Education;

b. Monitoring the agencies, institutions and organizations that provide early intervention services and supports;

c. Enforcing any obligations imposed under Part C of the Act on the agencies listed in paragraph 120.801(1)“*b*”;

d. Providing technical assistance, if necessary, to the agencies, institutions and organizations listed in paragraph 120.801(1)“*b*”;

e. Correcting deficiencies that are identified through monitoring;

f. Adopting and carrying out complaint procedures;

g. Mediating any interagency disputes regarding early intervention services;

h. Establishing policies related to how early intervention services to eligible children and their families shall be paid for;

i. Establishing procedures to ensure the timely provision of services;

j. Ensuring that the following functions and services are provided at public expense:

(1) Child find requirements;

(2) Evaluation and assessment functions;

(3) Service coordination;

(4) Development and review of IFSPs;

(5) Implementation of procedural safeguards; and

(6) Other components of the statewide system of Early ACCESS;

k. Maintaining a data system to be utilized for gathering information regarding early intervention services provided for eligible children in Early ACCESS; and

l. Monitoring use of funds.

120.801(2) *Signatory agencies.* The department of education, the department of health and human services, and the child health specialty clinics shall enter into an interagency agreement to formalize their joint commitments to the establishment and ongoing implementation and evaluation of a comprehensive, integrated, interagency Early ACCESS system. The Iowa department of education is responsible for providing education programs and services for preschool and school-age students, including children with disabilities, from birth through 21 years of age. The Iowa department of health and human services administers social service programs in order to help and empower individuals and families to become increasingly self-sufficient and productive and administers public health programs in order to promote and protect the health of Iowans. The child health specialty clinics are the statewide public health program for children with special health care needs, as designated by the legislature.

120.801(3) *Interagency agreement.* In addition to the requirements set forth elsewhere in this chapter, the agreement between signatory agencies shall outline the commitment of these agencies to the implementation of an interagency, integrated system of Early ACCESS and:

- a. Reflect the interagency vision and guiding principles of Early ACCESS;
- b. Define the population to be served;
- c. Identify roles, responsibilities and expectations of the signatory agencies;
- d. Outline financial responsibilities of the signatory agencies;
- e. Describe parameters for policy development and management decisions;
- f. Describe procedures for resolving disputes;
- g. Identify transition activities from Part C services;
- h. Describe child find efforts; and
- i. Describe the roles and responsibilities of the signatory agencies and assigned staff.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.802(34CFR303) Interagency service planning. An IFSP process shall be developed by the lead agency and shall be reviewed and approved by the signatory agencies. The process shall be used by all signatory agencies to document the ongoing work between families and providers across all agencies that are providing a service or resource to meet identified needs.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.803(34CFR303) System-level disputes. System-level disputes involve conflicts over the roles or responsibilities of an agency partner within the Early ACCESS system. System-level disputes may involve financial matters, the implementation of Early ACCESS system aspects that are not law or rules, such as interagency agreements and policies and procedures, or the implementation of provisions of the interagency agreement. The interagency agreement shall detail the resolution of informal and formal intra-agency and interagency system-level disputes.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.804(34CFR303) Early ACCESS system—regional and community levels.

120.804(1) Early ACCESS grantees. Early ACCESS grantees shall have the fiscal and legal obligation for ensuring that the Early ACCESS system is carried out regionally. Early ACCESS grantees shall be designated by the department and shall exist, at a minimum, in geographic areas that ensure statewide coverage as determined by the department.

a. *Policies.* Each grantee shall establish in accordance with this chapter the policies pertinent to a regional Early ACCESS system and shall make such policies available to the department upon request. At a minimum, such policies shall include the following:

- (1) Policy to ensure that appropriate early intervention services are available to all eligible children in the state and their families, including Indian infants and toddlers and their families residing on a reservation or settlement geographically located in the state;
- (2) Policy to ensure that all infants and toddlers in the state who are eligible for services under this chapter are identified, located, and evaluated and that an effective method to determine which children are receiving needed early intervention services is developed and implemented;
- (3) Policy regarding the development and implementation of individualized family service plans;
- (4) Policy for the establishment and maintenance of standards to ensure that personnel necessary to carry out the requirements of this chapter are appropriately and adequately prepared and trained;
- (5) Policy pertaining to contracting or making other arrangements with public or private service providers to provide early intervention services and service coordination;
- (6) Policy to ensure a smooth transition to preschool or other appropriate services for children receiving early intervention services under this chapter; and
- (7) Any other policy required to carry out the purposes of this chapter.

b. *Procedures.* Each grantee shall develop, in accordance with this chapter, written procedures pertinent to the implementation of a regional Early ACCESS system, and shall make such procedures available to the department upon request. At a minimum, such procedures shall include the following:

- (1) Procedures to ensure that all infants and toddlers who are eligible for services under this chapter are identified, located, and evaluated and that an effective method to determine which children are receiving needed early intervention services is developed and implemented;

- (2) Procedures for use by primary referral sources for referring a child to the appropriate public agency within the system for evaluation and assessment or, as appropriate, the provision of services;
- (3) Procedures to ensure provision of early intervention services and service coordination, including the appointment of service coordinators;
- (4) Procedures to ensure documentation and the development and implementation of an interim IFSP, when circumstances warrant under this chapter;
- (5) Procedures for conducting nondiscriminatory evaluation and assessment;
- (6) Procedures for the development and implementation of individualized family service plans;
- (7) Procedures for the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained;
- (8) Procedures for ensuring procedural safeguards that meet the requirements of this chapter;
- (9) Procedures for ensuring maintenance and confidentiality of records;
- (10) Procedures to allow parties to disputes to resolve the disputes through a mediation process;
- (11) Procedures for providing mediation for the timely administrative resolution of complaints by parents regarding an individual child;
- (12) Procedures for resolving a complaint that any public agency is violating a requirement of Part C of the Act;
- (13) Procedures related to how services to eligible children and their families will be paid for under the state's Early ACCESS program;
- (14) Procedures for the timely provision of services, ensuring that no service to which a child is entitled is delayed or denied because of disputes between agencies regarding financial or other responsibilities;
- (15) Procedures for resolving intra-agency and interagency disputes about payments for a given service or about other matters related to the state's Early ACCESS program in accordance with any applicable interagency agreement and with this chapter;
- (16) Procedures to ensure that services are provided to eligible children and their families in a timely manner pending the resolution of disputes among public agencies or service providers;
- (17) Procedures for securing the timely reimbursement of funds; and
- (18) Any other procedures required to carry out the purposes of this chapter.

c. Collaboration. Early ACCESS grantees shall collaborate with local representatives of signatory agencies, community partners, and families in the development, implementation and monitoring of policies and procedures described in this rule. Early ACCESS grantees shall designate an individual who has primary responsibility for coordinating regional implementation and serving as a liaison to the department.

120.804(2) Community partners. Community partners include state and local representatives of signatory agencies, as well as other regional and community agencies and providers, public and private, including physicians, Early Head Start, child care providers, early childhood Iowa areas, and health programs, that work with Early ACCESS when providing early intervention services or other supports such as supporting family participation in improving the Early ACCESS system, early identification of eligible children, service coordination, provision of other needed services or resources, and other efforts to improve the Early ACCESS system.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.805(34CFR303) Provision of year-round services. Each Early ACCESS grantee shall ensure that Early ACCESS components and services are available 12 months a year to meet the needs of eligible children and their families.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.806(34CFR303) Evaluation and improvement. Each grantee, in conjunction with signatory agencies or the department, or both, will implement activities designed to evaluate and improve the Early

ACCESS system. These activities are to document the performance of eligible children who receive early intervention services.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.807(34CFR303) Research. Each grantee will cooperate in research activities designed to evaluate and improve the Early ACCESS system when such activities are sponsored by the department, or a signatory agency when approved by the department, to assess and ensure the effectiveness of efforts to serve eligible children.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.808(34CFR303) Records and reports. Each signatory agency or grantee will maintain sufficient records and reports for audit by the department. Records and reports shall include at a minimum:

1. State-approved or state-recognized certification, licensing, registration, or other comparable requirements for all personnel providing early intervention services.
2. All IFSP meetings and annual or periodic reviews for each eligible child.
3. Data required for federal and state reporting.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.809(34CFR303) Information for department. Each signatory agency or grantee will provide the department with information necessary to enable the department to carry out its duties under Part C of the Act and this chapter. This information, including such quantitative and qualitative data as the department may require, will be submitted in a manner and at a time determined by the department. Failure to submit timely and accurate information may be considered by the department in making the determinations under rule 281—120.703(34CFR303) or in taking any other action to enforce Part C of the Act or this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.810(34CFR303) Public information. Each agency must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part C of the Act.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.811(34CFR303) Dispute resolution: practice before mediators and administrative law judges. Unless otherwise provided by this chapter, any mediation conference or due process hearing under Division VI of this chapter shall be conducted according to rules 281—41.1000(256B,34CFR300) through 281—41.1016(256B,34CFR300).

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.812(34CFR303) References to federal law. All references in this chapter to provisions of the United States Code or the Code of Federal Regulations are to those provisions in effect on September 28, 2011.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.813(34CFR303) Severability. Should any rule or subrule in this chapter be declared invalid by a court of competent jurisdiction, every other rule and subrule not affected by that declaration of invalidity shall remain valid.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

281—120.814(34CFR303) Rule of construction. Language adopted pursuant to 2020 Iowa Acts, House File 2585, will be construed in a manner consistent with federal law and will not be construed to confer any different or greater right or responsibility under this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement the Individuals with Disabilities Education Act as amended through July 1, 2005, and Part 303 of Title 34 of the Code of Federal Regulations published in the Federal Register on September 28, 2011.

[Filed 11/21/02, Notice 8/21/02—published 12/11/02, effective 1/15/03]

[Filed 2/12/07, Notice 1/3/07—published 3/14/07, effective 4/18/07]

[Filed ARC 0100C (Notice ARC 0018C, IAB 2/22/12), IAB 4/18/12, effective 5/23/12]

[Filed ARC 5870C (Notice ARC 5664C, IAB 6/2/21), IAB 8/25/21, effective 9/29/21]

[Filed ARC 6724C (Notice ARC 6584C, IAB 10/5/22), IAB 12/14/22, effective 1/18/23]

[Filed ARC 6979C (Notice ARC 6875C, IAB 2/8/23), IAB 4/19/23, effective 5/24/23]

[Filed ARC 7805C (Notice ARC 7601C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

INSPECTIONS AND APPEALS DEPARTMENT[481]

CHAPTER 1 ADMINISTRATION

1.1(10A)	Organization
1.2(10A)	Definitions
1.3(10A)	Administration division
1.4(10A)	Investigations division
1.5(10A)	Health facilities division
1.6(10A)	Administrative hearings division
1.7(10A)	Administering discretion
1.8(10A)	Employment appeal board
1.9(10A,237)	Child advocacy board
1.10(10A,13B)	State public defender
1.11(10A,99D,99F)	Racing and gaming commission
1.12(10A,68B)	Consent for the sale of goods and services

CHAPTER 2 PETITIONS FOR RULEMAKING

2.1(17A)	Petition for rulemaking
2.3(17A)	Inquiries

CHAPTER 3 DECLARATORY ORDERS

3.1(17A)	Petition for declaratory order
3.2(17A)	Notice of petition
3.3(17A)	Intervention
3.5(17A)	Inquiries
3.6(17A)	Service and filing of petitions and other papers
3.8(17A)	Action on petition

CHAPTER 4 AGENCY PROCEDURE FOR RULEMAKING

4.3(17A)	Public rulemaking docket
4.4(17A)	Notice of proposed rulemaking
4.5(17A)	Public participation
4.6(17A)	Regulatory analysis
4.11(17A)	Concise statement of reasons
4.13(17A)	Agency rulemaking record

CHAPTER 5 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES (Uniform Rules)

5.1(17A,22)	Definitions
5.3(17A,22)	Requests for access to records
5.6(17A,22)	Procedure by which a subject may have additions, dissents, or objections entered into the record
5.9(17A,22)	Disclosures without the consent of the subject
5.10(17A,22)	Routine use
5.11(17A,22)	Consensual disclosure of confidential records
5.12(17A,22)	Release to subject
5.13(17A,22)	Availability of records
5.14(17A,22)	Authority to release confidential records

- 5.15(17A,22) Personnel files
- 5.16(17A,22) Personally identifiable information

CHAPTER 6 UNIFORM WAIVER RULES

- 6.1(10A,17A,ExecOrd11) Applicability
- 6.2(10A,17A,ExecOrd11) Definitions
- 6.3(10A,17A,ExecOrd11) Interpretive rules
- 6.4(10A,17A,ExecOrd11) Compliance with statute
- 6.5(10A,17A,ExecOrd11) Criteria for waiver
- 6.6(10A,17A,ExecOrd11) Filing of petition
- 6.7(10A,17A,ExecOrd11) Content of petition
- 6.8(10A,17A,ExecOrd11) Additional information
- 6.9(10A,17A,ExecOrd11) Notice
- 6.10(10A,17A,ExecOrd11) Hearing procedures
- 6.11(10A,17A,ExecOrd11) Ruling
- 6.12(10A,17A,ExecOrd11) Public availability
- 6.13(10A,17A,ExecOrd11) Voiding or cancellation
- 6.14(10A,17A,ExecOrd11) Violations
- 6.15(10A,17A,ExecOrd11) Defense
- 6.16(10A,17A,ExecOrd11) Appeals
- 6.17(10A,17A,ExecOrd11) Sample petition for waiver

CHAPTER 7 Reserved

CHAPTER 8 LICENSING AND CHILD SUPPORT NONCOMPLIANCE, STUDENT LOAN REPAYMENT NONCOMPLIANCE, AND NONPAYMENT OF STATE DEBT

- 8.1(252J,272D) Definitions

CHILD SUPPORT NONCOMPLIANCE

- 8.2(252J) Definitions
- 8.3(252J) Child support certificates of noncompliance

STUDENT LOAN REPAYMENT NONCOMPLIANCE

- 8.4(272C) Student loan repayment noncompliance

NONPAYMENT OF STATE DEBT

- 8.5(272D) Definitions
- 8.6(272D) State debt certificates of noncompliance

CHAPTER 9 CONTESTED CASES

- 9.1(10A,17A) Applicability
- 9.2(10A,17A) Initiation of a contested case proceeding
- 9.3(10A,17A) Director review
- 9.4(10A,17A) Rehearing
- 9.5(10A,17A) Judicial review

CHAPTER 10 RULES OF PROCEDURE AND PRACTICE BEFORE THE ADMINISTRATIVE HEARINGS DIVISION

- 10.1(10A) Definitions
- 10.2(10A,17A) Time requirements

10.3(10A)	Requests for a contested case hearing
10.4(10A)	Transmission of contested cases
10.5(17A)	Notices of hearing
10.6(10A)	Waiver of procedures
10.7(10A,17A)	Telephone proceedings
10.8(10A,17A)	Scheduling
10.9(17A)	Disqualification
10.10(10A,17A)	Consolidation—severance
10.11(10A,17A)	Pleadings
10.12(17A)	Service and filing of documents
10.13(17A)	Discovery
10.14(10A,17A)	Subpoenas
10.15(10A,17A)	Motions
10.16(10A,17A)	Prehearing conference
10.17(10A)	Continuances
10.18(10A,17A)	Withdrawals
10.19(10A,17A)	Intervention
10.20(17A)	Hearing procedures
10.21(17A)	Evidence
10.22(17A)	Default
10.23(17A)	Ex parte communication
10.24(10A,17A)	Decisions
10.25	Reserved
10.26(10A,17A,272C)	Board hearings
10.27	Reserved
10.28(10A)	Recording costs

CHAPTER 11

PROCEDURE FOR CONTESTED CASES INVOLVING PERMITS TO CARRY WEAPONS AND ACQUIRE FIREARMS

11.1(17A,724)	Definitions
11.2(724)	Appeals
11.3(17A,724)	Notice of hearing
11.4(17A,724)	Agency record
11.5(17A)	Contested case hearing
11.6(17A,724)	Service and filing of documents
11.7(17A)	Witness lists and exhibits
11.8(17A)	Evidence
11.9(17A)	Withdrawals and dismissals
11.10(17A)	Default
11.11(10A,724)	Attorney fees, court costs, and contested case costs
11.12(724)	Probable cause
11.13(724)	Clear and convincing evidence
11.14(17A)	Rehearing

CHAPTERS 12 to 14

Reserved

CHAPTER 15

IOWA CODE OF ADMINISTRATIVE JUDICIAL CONDUCT

15.1(10A)	Canon 1
15.2(10A)	Canon 2
15.3(10A)	Canon 3

- 15.4(10A) Canon 4
- 15.5(10A) Scope, definitions, and application

CHAPTER 16

ADMINISTRATIVE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

- 16.1(10A) Scope
- 16.2(10A) Definitions
- 16.3(10A) Registration, username, and passwords
- 16.4(10A) Electronic filing not mandatory
- 16.5(10A) Filing of paper documents
- 16.6(10A) Date and time of filing
- 16.7(10A) Signatures
- 16.8(10A) Redaction of electronic documents
- 16.9(10A) General requirements when filing documents
- 16.10(10A) Case initiation and service

CHAPTERS 17 to 19

Reserved

AUDITS DIVISION

CHAPTERS 20 and 21

Reserved

CHAPTER 22

HEALTH CARE FACILITY AUDITS

- 22.1(10A) Audit occurrence
- 22.2(10A) Confidentiality

CHAPTERS 23 to 29

Reserved

INSPECTIONS DIVISION

CHAPTER 30

FOOD AND CONSUMER SAFETY

- 30.1(10A,137C,137F) Food and consumer safety bureau
- 30.2(10A,137C,137F) Definitions
- 30.3(137C,137F) Licensing and postings
- 30.4(137C,137F) License fees
- 30.5(137F) Penalty and delinquent fees
- 30.6(137C,137F) Returned checks
- 30.7(137F) Double licenses
- 30.8(137C,137F) Inspection frequency
- 30.9(22) Examination of records
- 30.10(17A,137C,137F) Denial, suspension, or revocation of a license to operate
- 30.11(10A,137C,137F) Formal hearing
- 30.12(137F) Primary servicing laboratory
- 30.13(10A,137F) Cottage food

CHAPTER 31

FOOD ESTABLISHMENT AND FOOD
PROCESSING PLANT INSPECTIONS

- 31.1(137F) Inspection standards for food establishments
- 31.2(137F) Inspection standards for food processing plants

- 31.3(137F) Adulterated food and disposal
- 31.4(137D,137F) False label or defacement
- 31.5(137F) Temporary food establishments and farmers market time/temperature control for safety food licensees

CHAPTERS 32 and 33
Reserved

CHAPTER 34
HOME FOOD PROCESSING ESTABLISHMENTS

- 34.1(137D) Definitions
- 34.2(137D) Licensing
- 34.3(137D) Physical facilities and equipment
- 34.4(137D) Management and personnel
- 34.5(137D) Receiving, storage, and distribution
- 34.6(137D) Food preparation and protection
- 34.7(137D) Packaging and labeling requirements
- 34.8(137D) Sanitation
- 34.9(137D) Maintenance of records by licensee
- 34.10(137D) Violations and enforcement
- 34.11(137D) Denial, suspension, or revocation of license
- 34.12(137D) Inspection and access to records
- 34.13(137D) Public examination of records
- 34.14(137D) Appeals

CHAPTER 35
CONTRACTOR REQUIREMENTS

- 35.1(137C,137D,137F) Definitions
- 35.2(137C,137D,137F) Contracts
- 35.3(137C,137D,137F) Contractor
- 35.4(137C,137D,137F) Contractor inspection personnel
- 35.5(137C,137D,137F) Investigation
- 35.6(137C,137D,137F) Inspection standards
- 35.7(137C,137D,137F) Enforcement
- 35.8(137C,137D,137F) Licensing
- 35.9(137C,137D,137F) Records
- 35.10(137C,137D,137F) Contract rescinded

CHAPTER 36
Reserved

CHAPTER 37
HOTEL AND MOTEL INSPECTIONS

- 37.1(137C) Building and grounds
- 37.2(137C) Guest rooms
- 37.3(137C) Bedding
- 37.4(137C) Lavatory facilities
- 37.5(137C) Glasses and ice
- 37.6 Reserved
- 37.7(137C) Room rates
- 37.8(137C) Inspections
- 37.9(137C) Enforcement
- 37.10(137C) Criminal offense—conviction of license holder

CHAPTERS 38 to 40

Reserved

CHAPTER 41

PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)

41.1(135H)	Definitions
41.2(135H)	Application for license
41.3(135H)	Renewal application or change of ownership
41.4(135H)	Licenses for distinct parts
41.5(135H)	Waivers
41.6(135H)	Notice to the department
41.7(135H)	Inspection of complaints
41.8(135H)	General requirement
41.9(135H)	Certification of need for services
41.10(135H)	Active treatment
41.11(135H)	Individual plan of care
41.12(135H)	Individual written plan of care
41.13(135H)	Plan of care team
41.14(135H)	Required discharge
41.15(135H)	Criminal behavior involving children
41.16(22,135H)	Confidential or open information
41.17(135H)	Additional provisions concerning physical restraint

CHAPTERS 42 to 49

Reserved

CHAPTER 50

HEALTH CARE FACILITIES ADMINISTRATION

50.1(10A)	Inspections
50.2(10A)	Definitions
50.3(135B,135C)	Licensing
50.4(135C)	Fines and citations
50.5(135C)	Denial, suspension or revocation
50.6(10A)	Formal hearing
50.7(10A,135C)	Additional notification
50.8(22,135B,135C)	Records
50.9(135C)	Criminal, dependent adult abuse, and child abuse record checks
50.10(135C)	Inspections, exit interviews, plans of correction, and revisits
50.11(135C)	Complaint and self-reported incident investigation procedure
50.12(135C)	Requirements for service
50.13(135C)	Inspectors' conflicts of interest

CHAPTER 51

HOSPITALS

51.1(135B)	Definitions
51.2(135B)	Classification, compliance and license
51.3(135B)	Quality improvement program
51.4(135B)	Long-term acute care hospital located within a general hospital
51.5(135B)	Medical staff
51.6(135B)	Patient rights and responsibilities
51.7(135B)	Abuse
51.8(135B)	Organ, tissue and eye procurement
51.9(135B)	Nursing services

51.10(135B)	Records and reports
51.11(135B)	Pharmaceutical service
51.12(135B)	Verbal orders
51.13(135B)	Radiological services
51.14(135B)	Laboratory service
51.15(135B)	Food and nutrition service
51.16(135B)	Equipment for patient care
51.17(135B)	Infection control
51.18(135B)	Surgical services
51.19(135B)	Anesthesia services
51.20(135B)	Emergency services
51.21(135B)	Obstetric and neonatal services
51.22(135B)	Pediatric services
51.23(135B)	Psychiatric services
51.24(135B)	Long-term care service
51.25(135B)	Criminal, dependent adult abuse, and child abuse record checks
51.26(135B)	Minimum standards for construction
51.27(135B)	Critical access hospitals
51.28(135B)	Rural emergency hospitals
51.29(135B)	Specialized hospitals

CHAPTER 52

DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

52.1(235E)	Definitions
52.2(235E)	Persons who must report dependent adult abuse and the reporting procedure for those persons
52.3(235E)	Reports and registry of dependent adult abuse
52.4	Reserved
52.5(235E)	Evaluation of report
52.6(235E)	Separation of victim and alleged abuser
52.7(235E)	Interviews, examination of evidence, and investigation of dependent adult abuse allegations
52.8(235E)	Notification to subsequent employers

CHAPTER 53

HOSPICE LICENSE STANDARDS

53.1(135J)	Definitions
53.2(135J)	License
53.3(135J)	Patient rights
53.4(135J)	Governing body
53.5(135J)	Quality assurance and utilization review
53.6(135J)	Attending physician services
53.7(135J)	Medical director
53.8(135J)	Interdisciplinary team (IDT)
53.9(135J)	Nursing services
53.10	Reserved
53.11(135J)	Coordinator of patient care
53.12(135J)	Social services
53.13(135J)	Counseling services
53.14(135J)	Volunteer services
53.15(135J)	Spiritual counseling
53.16(135J)	Optional services

53.17(135J)	Contracted services
53.18(135J)	Short-term hospital services
53.19(135J)	Bereavement services
53.20(135J)	Records

CHAPTER 54

GOVERNOR'S AWARD FOR QUALITY CARE

54.1(135C)	Purpose
54.2(135C)	Definitions
54.3(135C)	Nomination
54.4(135C)	Applicant eligibility
54.5(135C)	Nomination information
54.6(135C)	Evaluation
54.7(135C)	Selection of finalists
54.8(135C)	Certificate of recognition

CHAPTER 55

HEALTH CARE EMPLOYMENT AGENCIES

55.1(89GA,HF2521)	Definitions
55.2(89GA,HF2521)	Health care employment agency registration
55.3(89GA,HF2521)	General requirements
55.4(89GA,HF2521)	Prohibitions
55.5(89GA,HF2521)	Record retention and reporting
55.6(89GA,HF2521)	Complaints
55.7(89GA,HF2521)	Investigations
55.8(89GA,HF2521)	Penalties
55.9(89GA,HF2521)	Public and confidential information

CHAPTER 56

FINING AND CITATIONS

56.1(135C)	Authority for citations
56.2(135C)	Classification of violations—classes
56.3(135C)	Fines
56.4(135C)	Time for compliance
56.5(135C)	Failure to correct a violation within the time specified—penalty
56.6(135C)	Treble and double fines
56.7(135C)	Notation of classes of violations
56.8(135C)	Notation for more than one class of violation
56.9(135C)	Factors determining selection of class of violation
56.10(135C)	Factors determining imposition of citation and fine
56.11(135C)	Class I violation not specified in the rules
56.12(135C)	Class I violation as a result of multiple lesser violations
56.13(135C)	Form of citations
56.14(135C)	Licensee's response to a citation
56.15(135C)	Informal conference
56.16(135C)	Procedure for facility after informal conference
56.17(135C)	Formal contest

CHAPTER 57

RESIDENTIAL CARE FACILITIES

57.1(135C)	Definitions
57.2(135C,17A)	Waiver
57.3(135C)	Application for licensure

57.4(135C)	Issuance of license
57.5(135C)	Licenses for distinct parts
57.6(135C)	Special classifications
57.7(135C)	General requirements
57.8(135C)	Certified volunteer long-term care ombudsman program
57.9(135C)	Required notifications to the department
57.10(135C)	Administrator
57.11(135C)	Personnel
57.12(135C)	General policies
57.13(135C)	Admission, transfer and discharge
57.14(135C)	Involuntary discharge or transfer
57.15(135C)	Residency agreement
57.16(135C)	Medical examinations
57.17(135C)	Records
57.18(135C)	Resident care and personal services
57.19(135C)	Drugs
57.20(135C)	Dental services
57.21(135C)	Dietary
57.22(135C)	Orientation and service plan
57.23(135C)	Resident activities program
57.24(135C)	Residents' rights
57.25(135C)	Dignity preserved
57.26(135C)	Communications
57.27(135C)	Resident activities
57.28(135C)	Resident property
57.29(135C)	Financial affairs—management
57.30(135C)	Resident work
57.31(135C)	Family—shared rooms
57.32(135C)	Resident abuse prohibited
57.33(135C)	Crisis intervention
57.34(135C)	Safety
57.35(135C)	Housekeeping
57.36(135C)	Maintenance
57.37(135C)	Laundry
57.38(135C)	Garbage and waste disposal
57.39(135C)	Supplies
57.40(135C)	Buildings, furnishings, and equipment
57.41(135C)	Family and employee accommodations
57.42(135C)	Animals
57.43(135C)	Another business or activity in a facility
57.44(135C)	Respite care services

CHAPTER 58 NURSING FACILITIES

58.1(135C)	Definitions
58.2(135C)	Waivers
58.3(135C)	Application for licensure
58.4(135C)	General requirements
58.5(135C)	Notifications required by the department
58.6	Reserved
58.7(135C)	Licenses for distinct parts
58.8(135C)	Administrator

58.9(135C)	Administration
58.10(135C)	General policies
58.11(135C)	Personnel
58.12(135C)	Admission, transfer, and discharge
58.13(135C)	Contracts
58.14(135C)	Medical services
58.15(135C)	Records
58.16(135C)	Resident care and personal services
58.17	Reserved
58.18(135C)	Nursing care
58.19(135C)	Required nursing services for residents
58.20(135C)	Duties of health service supervisor
58.21(135C)	Drugs, storage, and handling
58.22(135C)	Rehabilitative services
58.23(135C)	Dental, diagnostic, and other services
58.24(135C)	Dietary
58.25(135C)	Social services program
58.26(135C)	Resident activities program
58.27	Reserved
58.28(135C)	Safety
58.29(135C)	Resident care
58.30	Reserved
58.31(135C)	Housekeeping
58.32(135C)	Maintenance
58.33(135C)	Laundry
58.34(135C)	Garbage and waste disposal
58.35(135C)	Buildings, furnishings, and equipment
58.36(135C)	Family and employee accommodations
58.37(135C)	Animals
58.38(135C)	Supplies
58.39(135C)	Residents' rights in general
58.40(135C)	Involuntary discharge or transfer
58.41(135C)	Residents' rights
58.42(135C)	Financial affairs—management
58.43(135C)	Resident abuse prohibited
58.44(135C)	Resident records
58.45(135C)	Dignity preserved
58.46(135C)	Resident work
58.47(135C)	Communications
58.48(135C)	Resident activities
58.49(135C)	Resident property
58.50(135C)	Family visits
58.51(135C)	Choice of physician and pharmacy
58.52(135C)	Incompetent resident
58.53	Reserved
58.54(135C)	Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility)
58.55(135C)	Another business or activity in a facility
58.56(135C)	Respite care services
58.57(135C)	Training of inspectors

CHAPTER 59
TUBERCULOSIS (TB) SCREENING

- 59.1(135B,135C) Purpose
- 59.2(135B,135C) Definitions
- 59.3(135B,135C) TB risk assessment
- 59.4(135B,135C) Health care facility or hospital risk classification
- 59.5(135B,135C) Baseline TB screening procedures for health care facilities and hospitals
- 59.6(135B,135C) Serial TB screening procedures for health care facilities and hospitals
- 59.7(135B,135C) Screening of HCWs who transfer to other health care facilities or hospitals
- 59.8(135B,135C) Baseline TB screening procedures for residents of health care facilities
- 59.9(135B,135C) Serial TB screening procedures for residents of health care facilities
- 59.10(135B,135C) Performance of screening and testing

CHAPTER 60
MINIMUM PHYSICAL STANDARDS FOR RESIDENTIAL CARE FACILITIES

- 60.1(135C) Definitions
- 60.2(135C) General requirements
- 60.3(135C) Submission of construction documents
- 60.4(135C) Waivers
- 60.5(135C) Additional notification requirements
- 60.6(135C) Construction requirements
- 60.7(135C) Typical construction
- 60.8(135C) Sleeping, bathing, and medication rooms
- 60.9(135C) Dining, activity, and storage rooms
- 60.10(135C) Service area
- 60.11(135C) Administration and staff area
- 60.12(135C) Public area
- 60.13(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (memory care unit or facility)
- 60.14(135C) Elevator requirements

CHAPTER 61
MINIMUM PHYSICAL STANDARDS FOR NURSING FACILITIES

- 61.1(135C) Definitions
- 61.2(135C) General requirements
- 61.3(135C) Submission of construction documents
- 61.4(135C) Waivers
- 61.5(135C) Additional notification requirements
- 61.6(135C) Construction requirements
- 61.7(135C) Nursing care unit
- 61.8(135C) Dietetic and other service areas
- 61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility)

CHAPTER 62
RESIDENTIAL CARE FACILITIES FOR PERSONS WITH MENTAL ILLNESS (RCFs/PMI)

- 62.1(135C) Applicability
- 62.2(135C) Definitions
- 62.3(135C) Personnel
- 62.4(135C) Admission criteria
- 62.5(135C) Evaluation services

CHAPTER 63

RESIDENTIAL CARE FACILITY—THREE- TO FIVE-BED SPECIALIZED LICENSE

63.1(135C)	Definitions
63.2(135C,17A)	Waiver
63.3(135C)	Application for licensure
63.4(135C)	Issuance of license
63.5(135C)	General requirements
63.6(135C)	Required notifications to the department
63.7(135C)	Administrator
63.8(135C)	Personnel
63.9(135C)	General policies
63.10(135C)	Admission, transfer and discharge
63.11(135C)	Involuntary discharge or transfer
63.12(135C)	Residency agreement
63.13(135C)	Medical examinations
63.14(135C)	Records
63.15(135C)	Resident care and personal services
63.16(135C)	Drugs
63.17(135C)	Dental services
63.18(135C)	Dietary
63.19(135C)	Orientation and service plan
63.20(135C)	Resident activities program
63.21(135C)	Residents' rights
63.22(135C)	Dignity preserved
63.23(135C)	Communications
63.24(135C)	Resident property
63.25(135C)	Financial affairs—management
63.26(135C)	Resident work
63.27(135C)	Resident abuse prohibited
63.28(135C)	Crisis intervention
63.29(135C)	Safety
63.30(135C)	Housekeeping
63.31(135C)	Maintenance
63.32(135C)	Laundry
63.33(135C)	Garbage and waste disposal
63.34(135C)	Supplies
63.35(135C)	Buildings, furnishings, and equipment
63.36(135C)	Family and employee accommodations
63.37(135C)	Animals

CHAPTER 64

INTERMEDIATE CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED

64.1	Reserved
64.2(135C)	Waivers
64.3(135C)	Application for license
64.4(135C)	General requirements
64.5(135C)	Notifications required by the department
64.6(135C)	Veteran eligibility
64.7(135C)	Licenses for distinct parts
64.8 to 64.16	Reserved
64.17(135C)	Contracts

64.18(135C)	Records
64.19 to 64.32	Reserved
64.33(135C)	Allegations of dependent adult abuse
64.34(135C)	Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse
64.35	Reserved
64.36(135C)	Involuntary discharge or transfer
64.37 to 64.59	Reserved
64.60(135C)	Federal regulations adopted—conditions of participation
64.61	Reserved
64.62(135C)	Another business or activity in a facility
64.63(135C)	Respite care services

CHAPTER 65
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (ICF/PMI)

65.1(135C)	Definitions
65.2(135C)	Application for license
65.3(135C)	Licenses for distinct parts
65.4(135C)	Waivers
65.5(135C)	General requirements
65.6(135C)	Notification required by the department
65.7(135C)	Administrator
65.8(135C)	Administration
65.9(135C)	Personnel
65.10(135C)	General admission policies
65.11(135C)	Evaluation services
65.12(135C)	Individual program plan (IPP)
65.13(135C)	Activity program
65.14(135C)	Crisis intervention
65.15(135C)	Restraint or seclusion
65.16(135C)	Discharge or transfer
65.17(135C)	Medication management
65.18(135C)	Resident property and personal affairs
65.19(135C)	Financial affairs
65.20(135C)	Records
65.21(135C)	Health and safety
65.22(135C)	Nutrition
65.23(135C)	Physical facilities and maintenance
65.24	Reserved
65.25(135C)	Residents' rights in general
65.26(135C)	Incompetent residents
65.27(135C)	County care facilities
65.28(135C)	Violations
65.29(135C)	Another business or activity in a facility
65.30(135C)	Respite care services

CHAPTER 66
BOARDING HOMES

66.1(135O)	Definitions
66.2(135O)	Registration of boarding homes

66.3(135O)	Occupancy reports
66.4(135O)	Complaints and investigations
66.5	Reserved
66.6(135O)	Penalties
66.7(135O)	Public and confidential information

CHAPTER 67

GENERAL PROVISIONS FOR ELDER GROUP HOMES, ASSISTED LIVING PROGRAMS, AND ADULT DAY SERVICES

67.1(231B,231C,231D)	Definitions
67.2(231B,231C,231D)	Program policies and procedures, including those for incident reports
67.3(231B,231C,231D)	Tenant rights
67.4(231B,231C,231D)	Program notification to the department
67.5(231B,231C,231D)	Medications
67.6(231B,231C,231D)	Another business or activity located in a program
67.7(231B,231C,231D)	Waiver of criteria for retention of a tenant in the program
67.8(231B,231C,231D)	All other waiver requests
67.9(231B,231C,231D)	Staffing
67.10(17A,231B,231C,231D)	Monitoring
67.11(231B,231C,231D)	Complaint and program-reported incident report investigation procedure
67.12	Reserved
67.13(17A,231B,231C,231D,85GA,HF2365)	Exit interview, final report, plan of correction
67.14(17A,231B,231C,231D,85GA,HF2365)	Response to final report
67.15(17A,231B,231C,231D)	Denial, suspension or revocation of a certificate
67.16(17A,231B,231C,231D)	Conditional certification
67.17(17A,231B,231C,231D)	Civil penalties
67.18(17A,231B,231C,231D)	Judicial review
67.19(135C,231B,231C,231D)	Criminal, dependent adult abuse, and child abuse record checks
67.20(17A,231C,231D)	Emergency removal of tenants
67.21(231C)	Nursing assistant work credit
67.22(231B,231C,231D)	Public or confidential information

CHAPTER 68

ELDER GROUP HOMES

68.1(231B)	Definitions
68.2(231B)	Program certification and posting requirements
68.3(231B)	Certification—application process
68.4(231B)	Certification—application content
68.5(231B)	Initial certification process
68.6(231B)	Expiration of program certification
68.7(231B)	Recertification process
68.8(231B)	Notification of recertification
68.9(231B)	Listing of all certified programs
68.10(231B)	Change of ownership—notification to the department
68.11(231B)	Cessation of program operation
68.12(231B)	Occupancy agreement
68.13(231B)	Evaluation of tenant
68.14(231B)	Criteria for admission and retention of tenants
68.15(231B)	Involuntary transfer from the program
68.16(231B)	Tenant documents
68.17(231B)	Service plans
68.18(231B)	Nurse review

68.19(231B)	Staffing
68.20(231B)	Managed risk policy and managed risk consensus agreements
68.21(231B)	Transportation
68.22(231B)	Identification of veteran's benefit eligibility
68.23(231B)	Resident advocate committees
68.24(231B)	Life safety—emergency policies and procedures and structural safety requirements
68.25(231B)	Structural standards
68.26(231B)	Landlord and tenant Act

CHAPTER 69
ASSISTED LIVING PROGRAMS

69.1(231C)	Definitions
69.2(231C)	Program certification
69.3(231C)	Certification of a nonaccredited program—application process
69.4(231C)	Nonaccredited program—application content
69.5(231C)	Initial certification process for a nonaccredited program
69.6(231C)	Expiration of the certification of a nonaccredited program
69.7(231C)	Recertification process for a nonaccredited program
69.8(231C)	Notification of recertification for a nonaccredited program
69.9(231C)	Certification or recertification of an accredited program—application process
69.10(231C)	Certification or recertification of an accredited program—application content
69.11(231C)	Initial certification process for an accredited program
69.12(231C)	Recertification process for an accredited program
69.13(231C)	Listing of all certified programs
69.14(231C)	Recognized accrediting entity
69.15(231C)	Requirements for an accredited program
69.16(231C)	Maintenance of program accreditation
69.17(231C)	Change of ownership—notification to the department
69.18(231C)	Plan reviews of a building for a new program
69.19(231C)	Plan review prior to the remodeling of a building for a certified program
69.20(231C)	Cessation of program operation
69.21(231C)	Occupancy agreement
69.22(231C)	Evaluation of tenant
69.23(231C)	Criteria for admission and retention of tenants
69.24(231C)	Involuntary transfer from the program
69.25(231C)	Tenant documents
69.26(231C)	Service plans
69.27(231C)	Nurse review
69.28(231C)	Food service
69.29(231C)	Staffing
69.30(231C)	Dementia-specific education for program personnel
69.31(231C)	Managed risk policy and managed risk consensus agreements
69.32(231C)	Life safety—emergency policies and procedures and structural safety requirements
69.33(231C)	Transportation
69.34(231C)	Activities
69.35(231C)	Structural requirements
69.36(231C)	Dwelling units in dementia-specific programs
69.37(231C)	Landlord and tenant Act
69.38(83GA,SF203)	Identification of veteran's benefit eligibility
69.39(231C)	Respite care services

CHAPTER 70
ADULT DAY SERVICES

70.1(231D)	Definitions
70.2(231D)	Program certification
70.3(231D)	Certification of a nonaccredited program—application process
70.4(231D)	Nonaccredited program—application content
70.5(231D)	Initial certification process for a nonaccredited program
70.6(231D)	Expiration of the certification of a nonaccredited program
70.7(231D)	Recertification process for a nonaccredited program
70.8(231D)	Notification of recertification for a nonaccredited program
70.9(231D)	Certification or recertification of an accredited program—application process
70.10(231D)	Certification or recertification of an accredited program—application content
70.11(231D)	Initial certification process for an accredited program
70.12(231D)	Recertification process for an accredited program
70.13(231D)	Listing of all certified programs
70.14(231D)	Recognized accrediting entity
70.15(231D)	Requirements for an accredited program
70.16(231D)	Maintenance of program accreditation
70.17(231D)	Change of ownership—notification to the department
70.18(231D)	Plan reviews of a building for a new program
70.19(231D)	Plan review prior to the remodeling of a building for a certified program
70.20(231D)	Cessation of program operation
70.21(231D)	Contractual agreement
70.22(231D)	Evaluation of participant
70.23(231D)	Criteria for admission and retention of participants
70.24(231D)	Involuntary discharge from the program
70.25(231D)	Participant documents
70.26(231D)	Service plans
70.27(231D)	Nurse review
70.28(231D)	Food service
70.29(231D)	Staffing
70.30(231D)	Dementia-specific education for program personnel
70.31(231D)	Managed risk policy and managed risk consensus agreements
70.32(231D)	Life safety—emergency policies and procedures and structural safety requirements
70.33(231D)	Transportation
70.34(231D)	Activities
70.35(231D)	Structural requirements
70.36(231D)	Identification of veteran's benefit eligibility

CHAPTER 71
SUBACUTE MENTAL HEALTH CARE FACILITIES

71.1(135G)	Purpose—subacute mental health services
71.2(135G)	Definitions
71.3(135G)	Application for licensure
71.4(135G)	Licenses for distinct parts
71.5(135G)	Waivers
71.6(135G)	Provisional license
71.7(135G)	General requirements
71.8(135G)	Required notifications to the department
71.9(135G)	Reports of dependent adult abuse
71.10(135G)	Administrator
71.11(135G)	Administration

71.12(135G)	Personnel
71.13(135G)	Admission, transfer, and discharge
71.14(135G)	Treatment plan
71.15(135G)	Crisis intervention
71.16(135G)	Seclusion and restraint
71.17(135G)	Medication management
71.18(135G)	Dietary
71.19(135G)	Buildings, furnishings, and equipment
71.20(135G)	Records
71.21(135G)	Residents' rights in general
71.22(135G)	Health and safety

CHAPTER 72

ECONOMIC FRAUD CONTROL BUREAU

72.1(10A)	Definitions
72.2(10A)	Economic fraud control bureau (EFCB)
72.3(10A)	Types of investigations
72.4(10A)	Referrals
72.5(10A)	Investigation procedures
72.6(10A)	EBT trafficking or misuse investigations
72.7(10A)	Findings
72.8(10A)	Confidentiality

CHAPTER 73

MEDICAID FRAUD CONTROL UNIT

73.1(10A)	Definitions
73.2(10A)	Investigative authority
73.3(10A)	Referrals
73.4(10A)	Investigations
73.5(10A)	Access to records
73.6(10A)	Subpoenas
73.7(10A)	Investigation results
73.8(10A)	Confidentiality

CHAPTERS 74 to 89

Reserved

CHAPTER 90

PUBLIC ASSISTANCE DEBT RECOVERY UNIT

90.1(10A)	Definitions
90.2(10A)	Recovery process
90.3(10A)	Records
90.4	Reserved
90.5(10A)	Debt repayment
90.6(10A)	Further collection action
90.7(10A)	Appeal rights
90.8(10A)	Data processing systems matches
90.9(10A)	Confidentiality

CHAPTERS 91 to 99

Reserved

*GAMES OF SKILL, CHANCE, BINGO
AND RAFFLES*

CHAPTER 100

GENERAL PROVISIONS FOR SOCIAL AND CHARITABLE GAMBLING

100.1(99B)	Definitions
100.2(99B)	Licensure
100.3(99B)	License application
100.4(99B)	Additional requirements for licensure
100.5(99B)	Returned checks
100.6(99B)	Payment systems
100.7(99B)	Participation—game of skill, game of chance or raffle
100.8(99B)	Posted rules—games other than bingo and raffles
100.9(99B)	Posted rules—bingo
100.10(99B)	Rules—raffles
100.11(99B)	Prizes
100.12(99B)	Games of chance—prohibited games
100.13(99B)	Records
100.14(99B)	Reports
100.15(10A,17A,99B)	Appeal rights
100.16(99B)	Raffles
100.17(99B)	Expenses
100.18(99B)	Net receipts
100.19(99B)	Licensure of manufacturers and distributors of bingo equipment and supplies and electronic raffle systems
100.20(99B)	Bingo supplies and equipment
100.21(99B)	Electronic raffles
100.22(99B)	Social gambling

CHAPTER 101

AMUSEMENT CONCESSIONS

101.1(99B)	License requirements
101.2(99B)	Prizes
101.3(99B)	Conducting games
101.4(99B)	Posted rules

CHAPTER 102

Reserved

CHAPTER 103

BINGO

103.1(99B)	Definitions
103.2(99B)	License
103.3(99B)	Bingo occasion
103.4(99B)	Game of bingo
103.5(99B)	State rules and rules established by the licensee
103.6(99B)	Prizes
103.7(99B)	Workers
103.8(99B)	Expenses
103.9(99B)	Location
103.10	Reserved
103.11(10A,725)	Advertising
103.12(10A,99B)	Equipment

- 103.13(99B) Records
- 103.14(99B) Bingo checking account
- 103.15(10A,99B) Bingo savings account and bingo change fund
- 103.16(99B) Annual gambling reports
- 103.17(10A,99B) Inspections and audits
- 103.18(99B) Electronic bingo
- 103.19(99B) Bingo at a fair or community festival

CHAPTER 104

GENERAL PROVISIONS FOR ALL AMUSEMENT DEVICES

- 104.1(10A,99B) Definitions
- 104.2(99B) Device restrictions
- 104.3(99B) Prohibited games/devices
- 104.4(99B) Prizes
- 104.5(99B) Registration
- 104.6(99B) Violations
- 104.7(99B,17A) Declaratory orders

CHAPTER 105

REGISTERED AMUSEMENT DEVICES

- 105.1(10A,99B) Definitions
- 105.2(99B) Registered amusement device restrictions
- 105.3(99B) Prohibited registered amusement devices
- 105.4(99B) Prizes
- 105.5(99B) Registration by a manufacturer, distributor, or an owner that operates for profit
- 105.6(99B) Registration of registered amusement devices
- 105.7(99B) Violations
- 105.8(10A,99B) Appeal rights
- 105.9(10A,99B) Procedure for denial, revocation, or suspension of a registration
- 105.10(99B) Annual verification of device location
- 105.11(99B) Criteria for approval or denial of a registration
- 105.12(10A,99B) Suspension or revocation of a registration

CHAPTER 106

CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

- 106.1(99B) Definitions
- 106.2(99B) Licensing
- 106.3(99B) Card game tournament
- 106.4(99B) Records

CHAPTER 2
PETITIONS FOR RULEMAKING

The department adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure related to petitions for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the Iowa general assembly's website. References to "the agency" within any uniform rule include the department and any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, unless a division, board, or commission has separate rulemaking authority and has adopted rules governing petitions for rulemaking.

[ARC 7806C, IAB 4/17/24, effective 5/22/24]

481—2.1(17A) Petition for rulemaking. In lieu of the words "the agency (designate office)", insert "the department or specific division, board, or commission within the department where the petition is directed, as applicable". In lieu of the words "(AGENCY NAME)", insert the department or specific division, board, or commission within the department where the petition is directed.

[ARC 7806C, IAB 4/17/24, effective 5/22/24]

481—2.3(17A) Inquiries. Inquiries concerning the status of a petition for rulemaking may be made to the department or applicable division, board, or commission as provided on the department's website.

[ARC 7806C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 17A.7.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

[Filed ARC 7806C (Notice ARC 7645C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 3
DECLARATORY ORDERS

The department of inspections, appeals, and licensing adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure related to declaratory orders, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the Iowa general assembly's website. These rules are applicable to any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, unless a division, board, or commission has separate rulemaking authority and has adopted rules governing declaratory orders. In lieu of the words “(designate agency)” within any uniform rule, insert the name of the department or specific board or division within the department where the petition for declaratory order is directed, as applicable. In lieu of the words “(designate office)”, insert the current location of the department, board, or division within the department, as applicable.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.1(17A) Petition for declaratory order. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF INSPECTIONS, APPEALS, AND LICENSING

[or the specific board or division within the department where the petition is directed]

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.2(17A) Notice of petition. In lieu of the words “ ___ days (15 or less)”, insert “15 days”.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.3(17A) Intervention.

3.3(1) In lieu of the words “within ___ days”, insert “within 15 days”. Strike the words “(after time for notice under X.2(17A))”. In lieu of the number “X.8(17A)”, insert “rule 481—3.8(17A)”.

In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF INSPECTIONS, APPEALS, AND LICENSING

[or the specific board or division within the department where the petition is directed]

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “to the department or applicable division, board, or commission as provided on the department’s website”.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.6(17A) Service and filing of petitions and other papers.

3.6(2) In lieu of the words “(specify office and address)”, insert the current address of the department, board, or division within the department, as applicable.

3.6(3) In lieu of the words “(uniform rule on contested cases X.12(17A))”, insert “rule 481—10.12(17A), except that the filing will be delivered to the department, board, or division at its current location”.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.8(17A) Action on petition. Replace all uniform rule text with “Action on the petition will be taken in accordance with Iowa Code section 17A.9(5).”

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 17A.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

[Filed ARC 7807C (Notice ARC 7646C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 4
AGENCY PROCEDURE FOR RULEMAKING

[481—Chapter 4 renumbered as 481—Chapter 10, effective 3/16/88.]

The department of inspections, appeals, and licensing adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure related to agency procedure for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the Iowa general assembly's website. References to “the agency” include the department or any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, unless the division, board, or commission has separate rulemaking authority and has adopted rules governing procedures for rulemaking.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.3(17A) Public rulemaking docket.

4.3(2) *Anticipated rulemaking.* In lieu of the words “(commission, board, council, director)”, insert “director, board, commissioner, or the like, as applicable”.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.4(17A) Notice of proposed rulemaking.

4.4(3) *Notices mailed.* In lieu of the words “(specify time period)”, insert “one calendar year”.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.5(17A) Public participation.

4.5(1) *Written comments.* Strike the words “(identify office and address) or”.

4.5(5) *Accessibility.* In lieu of the words “(designate office and telephone number)”, insert “the department, board, commissioner, or the like, as applicable”.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.6(17A) Regulatory analysis.

4.6(2) *Mailing list.* In lieu of the words “(designate office)”, insert “the department, division, board, commissioner, or the like, as applicable”.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.11(17A) Concise statement of reasons.

4.11(1) *General.* In lieu of the words “(specify the office and address)”, insert “the department or board, as applicable”.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.13(17A) Agency rulemaking record.

4.13(2) *Contents.* Amend paragraph “c” by inserting “director, board, commissioner, or the like, as applicable” in lieu of “(agency head)”.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 17A and section 25B.6.

[Filed 1/22/88, Notice 12/16/87—published 2/10/88, effective 3/16/88]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

[Filed ARC 7808C (Notice ARC 7647C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 8
LICENSING AND CHILD SUPPORT NONCOMPLIANCE, STUDENT LOAN
REPAYMENT NONCOMPLIANCE, AND NONPAYMENT OF STATE DEBT

481—8.1(252J,272D) Definitions. For the purpose of this chapter, the following definitions apply:

“*Applicant*” means a person seeking the issuance of a license.

“*Department*” means the department of inspections, appeals, and licensing.

“*License*” means the same as defined in Iowa Code sections 252J.1 and 272D.1.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

CHILD SUPPORT NONCOMPLIANCE

481—8.2(252J) Definitions. For the purpose of this division, the following definitions apply:

“*Certificate of noncompliance*” means the same as defined in Iowa Code section 252J.1.

“*Licensing authority*” means the same as defined in Iowa Code section 252J.1 and includes the department and any board, commission, or other entity of the department having authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

481—8.3(252J) Child support certificates of noncompliance. The licensing authority will suspend, revoke, or deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support recovery unit in accordance with Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the rules in this chapter apply.

8.3(1) Notice required by Iowa Code section 252J.8 will be served upon the applicant or licensee by restricted certified mail, return receipt requested; personal service in accordance with Iowa Rule of Civil Procedure 1.305; or the acceptance of service by the applicant or licensee personally or through authorized counsel.

8.3(2) The effective date of the denial, revocation, or suspension is 60 days following service of the notice upon the applicant or licensee.

8.3(3) The licensing authority is authorized to prepare and serve the notice mandated by Iowa Code section 252J.8 upon the applicant or licensee.

8.3(4) Applicants and licensees are responsible for keeping the licensing authority informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, including providing the licensing authority copies, within seven days of filing or issuance, of applications filed with the district court pursuant to Iowa Code section 252J.9, court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

8.3(5) All licensing authority fees required for license application, renewal or reinstatement must be paid before a license will be issued, renewed or reinstated after proceedings under Iowa Code chapter 252J.

8.3(6) A licensee or applicant may file an application with the district court within 30 days of service of a licensing authority notice pursuant to Iowa Code sections 252J.8 and 252J.9. The filing of the application stays the licensing authority’s action until the licensing authority receives a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial, revocation, or suspension, the licensing authority will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.3(7) The licensing authority will notify the applicant or licensee in writing within ten days of the effective date of the denial, suspension, or revocation of a license, and will similarly notify the applicant or licensee when the license is issued, renewed, or reinstated following the licensing authority’s receipt of a withdrawal of the certificate of noncompliance.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 252J.

STUDENT LOAN REPAYMENT NONCOMPLIANCE

481—8.4(272C) Student loan repayment noncompliance. Pursuant to Iowa Code section 272C.10(4), a person who is in default or delinquent on student loan payments will not be denied a license or have a license suspended or revoked solely on the basis of such default or delinquency.

This rule is intended to implement Iowa Code section 272C.4.
[ARC 7809C, IAB 4/17/24, effective 5/22/24]

NONPAYMENT OF STATE DEBT

481—8.5(272D) Definitions. For the purpose of this division, the following definitions apply:

“*Certificate of noncompliance*” means the same as defined in Iowa Code section 272D.1.

“*Licensing authority*” means the same as defined in Iowa Code section 272D.1 and includes the department and any board, commission, or other entity of the department having authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

481—8.6(272D) State debt certificates of noncompliance. The licensing authority will suspend, revoke, or deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue in accordance with Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, the rules in this chapter apply.

8.6(1) Notice required by Iowa Code section 272D.8 will be served upon the applicant or licensee by restricted certified mail, return receipt requested; personal service in accordance with Iowa Rule of Civil Procedure 1.305; or the acceptance of service by the applicant or licensee personally or through authorized counsel.

8.6(2) The effective date of the denial, revocation, or suspension is 60 days following service of the notice upon the applicant or licensee.

8.6(3) The licensing authority is authorized to prepare and serve the notice mandated by Iowa Code section 272D.8 upon the applicant or licensee.

8.6(4) Applicants and licensees are responsible for keeping the licensing authority informed of all court actions and all actions of the department of revenue taken under or in connection with Iowa Code chapter 272D, including providing the licensing authority copies, within seven days of filing or issuance, of applications filed with the district court pursuant to Iowa Code section 272D.9, court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

8.6(5) All licensing authority fees required for license application, renewal or reinstatement must be paid before a license will be issued, renewed or reinstated after proceedings under Iowa Code chapter 272D.

8.6(6) A licensee or applicant may file an application with the district court within 30 days of service of a licensing authority notice pursuant to Iowa Code sections 272D.8 and 272D.9. The filing of the application stays the licensing authority’s action until the licensing authority receives a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial, revocation, or suspension, the licensing authority will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.6(7) The licensing authority will notify the applicant or licensee in writing within ten days of the effective date of the denial, suspension, or revocation of a license, and will similarly notify the applicant or licensee when the license is issued, renewed, or reinstated following the licensing authority’s receipt of a withdrawal of the certificate of noncompliance.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 272D.

[Filed emergency 11/30/95—published 12/20/95, effective 11/30/95]

[Filed 8/4/00, Notice 6/28/00—published 8/23/00, effective 9/29/00]

[Filed ARC 5187C (Notice ARC 5106C, IAB 7/29/20), IAB 9/23/20, effective 10/28/20]
[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]
[Filed ARC 7809C (Notice ARC 7649C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 34
HOME FOOD PROCESSING ESTABLISHMENTS

481—34.1(137D) Definitions. As used in this chapter, unless the context otherwise requires:

“*Acidified foods*” means low-acid foods to which an acid or high-acid food is added. Acidified foods have a water activity (a_w) greater than 0.85 and have a finished equilibrium pH of 4.60 or below. These foods may be called or may purport to be “pickles” or “pickled.”

“*Active water*” or “*water activity*” or “(a_w)” means the measured free moisture in a food. The quotient of the water vapor pressure of the food divided by the vapor pressure of pure water at the same temperature provides the measured free moisture in the food.

“*Adulterated*” means the same as stated 21 U.S.C. Section 342 as amended to January 3, 2022.

“*Allergen cross contact*” means the unintentional incorporation of a food allergen into a food.

“*Contractor*” means a municipal corporation, county, or other political subdivision that contracts with the department to license and inspect under Iowa Code chapter 137D.

“*Cross contamination*” means the inadvertent transfer of bacteria or other contaminants from one surface, substance, etc., to another, especially because of unsanitary handling procedures.

“*Demonstrate control*” means the ability to provide clear and convincing evidence that a home food processing establishment has implemented written standard processes and practices that are intended to control food safety hazards including but not limited to standardized recipes, standard operating procedures, personal hygiene standards, temperature monitoring records, equipment calibration records, production or batch records, sanitation records, predefined corrective actions, training documents, distribution records, and receiving records.

“*Department*” means the same as defined in Iowa Code section 137D.1.

“*Equilibrium pH*” means the final pH measured in a food after all the components of the food have achieved the same acidity.

“*Fermentation*” means a metabolic process in which an organism converts a carbohydrate, such as starch or a sugar, into an alcohol or an acid. For example, yeast performs fermentation by converting sugar into alcohol. Bacteria perform fermentation by converting carbohydrates into lactic acid.

“*Fish*” means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

“*Food*” means the same as defined in Iowa Code section 137D.1.

“*Food contact surface*” means a surface of equipment or utensil with which food normally comes into contact; or a surface of equipment or utensil from which food may drip, drain, or splash into a food or onto a surface normally in contact with food.

“*Game animal*” means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2 or as poultry or fish.

1. “Game animal” includes mammals, such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles, such as land snakes.

2. “Game animal” does not include ratites.

“*HACCP plan*” means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

“*High-acid food*” means a food that has an equilibrium pH of 4.60 or lower without the addition of an acid.

“*Home food processing establishment*” or “*establishment*” means the same as “home food processing establishment” as defined in Iowa Code section 137D.1.

“*Homemade food item*” means the same as defined in Iowa Code section 137D.1. Homemade food items do not include the following:

1. Unpasteurized fruit or vegetable juice;
2. Raw sprout seeds;
3. Foods containing game animals;

4. Fish or shellfish;
5. Alcoholic beverages;
6. Bottled water;
7. Packaged ice;
8. Consumable hemp products;
9. Food that will be further processed by a food processing plant or another home food processing establishment;
10. Time/temperature control for safety food packaged using a reduced oxygen packaging method;
11. Milk or milk products regulated under Iowa Code chapters 192 and 194;
12. Meat or meat food products, and poultry or poultry products regulated under Iowa Code chapter 189A, except for any of the following products when sold directly to the end consumer:
 - Poultry, poultry byproduct, or poultry food product if the producer raised the poultry pursuant to the exemption set forth in 9 CFR 381.10(c)(1) limiting the producer to slaughtering not more than one thousand poultry during the calendar year;
 - Poultry, poultry byproduct, or poultry food product if the poultry is from an inspected source exempted pursuant to 9 CFR 381.10(d); or
 - Meat, meat byproduct, or meat food product if the meat is from an inspected source exempted pursuant to 9 CFR 303.1(d); or
13. A raw agricultural commodity. Other than raw bean or seed sprouts, raw agricultural commodities do not require a license issued by the department to sell and may be sold by home food processing establishments, although they are not homemade food items.

“Low-acid canned food” means a thermally processed low-acid food packaged in a hermetically sealed container.

“Low-acid food” means any food, other than alcoholic beverages, with a pH greater than 4.60 and (a_w) greater than 0.85.

“Major food allergen” means milk, egg, fish, crustacean shellfish (such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, soybeans, and sesame; or a food ingredient that contains protein derived from these foods.

“Packaged” means bottled, canned, cartoned, bagged, or wrapped. “Packaged” does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

“pH” means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity, and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

“Produce” means the same as defined in Iowa Code section 137D.1.

“Raw agricultural commodity” means the same as defined in 21 U.S.C. Section 321 as amended to April 1, 2023.

“Ready-to-eat food” means any food that is normally eaten in its raw state or any other food, including a processed food, for which it is reasonably foreseeable that the food will be eaten without further processing that would significantly minimize biological hazards.

“Recall” means an action taken when a food producer takes a product off the market because there is reason to believe the product may cause consumers to become ill.

“Reduced oxygen packaging” means reducing the amount of oxygen in a package by removing oxygen, displacing oxygen and replacing it with another gas or combination of gases, or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21 percent at sea level). Reduced oxygen packaging includes vacuum packaging, modified atmosphere packaging, controlled atmosphere packaging, cook chill packaging, and sous vide packaging.

“Shellfish”

1. “Crustacean shellfish” means crab, lobster and shrimp.
2. “Molluscan shellfish” means any edible species of oysters, clams, mussels, or scallops.

“*Special dietary use food*” includes a food that contains an artificial sweetener, except when specifically and solely used for achieving a physical characteristic in the food that cannot be achieved with sugar or other nutritive sweetener or a food that is used for the following:

1. Supplying particular dietary needs that exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of diseases, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;
2. Supplying particular dietary needs that exist by reason of age including but not limited to infancy and childhood; or
3. Supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property. Any such particular use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use.

“*Sprouts*” means seeds or beans used to grow sprouts that are harvested with their seed or root intact.

“*Standardized recipe*” means a recipe that has been tried, adapted, and retried several times for use by a given food service operation and has been found to produce the same good results and yield every time when the exact procedures are followed with the same type of equipment and same quantity and quality of ingredients. At a minimum, a standardized recipe includes the recipe name, listing of each ingredient, a measurement of each ingredient, equipment and utensils used, preparation instructions, and procedures to ensure the safety of the food.

“*Time/temperature control for safety*” or “*TCS*” means a food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation. TCS food does not include foods that have an equilibrium pH less than 4.60 or (a_w) content below 0.85. Examples of TCS foods include:

1. Animal food that is raw or heat-treated.
2. Plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or garlic-in-oil mixtures.

“*Traceback*” means to determine and document the distribution and production chain and the source(s) of a product that has been implicated in a foodborne illness investigation.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.2(137D) Licensing.

34.2(1) *Application for license.* A person shall not operate a home food processing establishment until a license has been obtained from the department or a contractor. Application for a license shall be made on a form furnished by the department containing the name of the business, name of the owner, physical address of the business, and list of all homemade food items the home food processing establishment intends to prepare. Applications for a license shall be completed using the department’s online application system at least 30 days prior to the anticipated opening of the home food processing establishment. If extenuating circumstances exist that prevent the applicant from completing the online application, paper applications are available from the department or a contractor.

34.2(2) *Homemade food item disclosure.* Homemade food items not listed on the application shall not be sold or distributed. New homemade food items may be added to an application at any time using the online application system or by submission of a paper form to the department or a contractor.

34.2(3) *Transferability.* A license is not transferable to a new owner or location. Any change in business ownership or business location requires a new license.

34.2(4) *Refunds.* License fees are refundable only if the license is surrendered to the department or a contractor prior to the effective date of the license. License fees are not refundable for a new home food processing establishment if a record review has occurred.

34.2(5) *Expiration and renewal.* A home food processing establishment license, unless sooner suspended or revoked, expires one year after the application for license is approved by the department or a contractor. A renewal should be submitted through the department’s online registration system with the required fee prior to expiration.

34.2(6) *Renewal 60 days or more after expiration.* A delinquent license will only be renewed if application for renewal is made within 60 days of expiration. If a delinquent license is not renewed

within 60 days, an establishment shall apply for a new license and meet all of the requirements for an initial license. An establishment that has not renewed the license within 60 days of expiration will be closed by the department or a contractor.

34.2(7) Documentation of gross sales. The license holder shall maintain documentation of annual gross sales of homemade food items and provide it to the regulatory authority upon request. Documentation of gross sales includes at least one of the following and will be kept confidential:

- a. A copy of the establishment's business tax return;
- b. Four quarters of gross sales of homemade food items;
- c. A letter from an independent tax preparer; or
- d. Other records documenting annual gross sales of homemade food items.

34.2(8) Returned payments. The department or a contractor will attempt to redeem a payment submitted for an establishment that is not honored by the bank on which it is drafted and will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 will be assessed for each dishonored payment. If the department or a contractor does not receive payment, the establishment will be operating without a valid license.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.3(137D) Physical facilities and equipment.

34.3(1) The floors, walls, ceilings, utensils, equipment, and supplies in the food processing and storage areas, and all vehicles used in the transportation of homemade food items, shall be maintained clean and in good repair.

34.3(2) Outer openings shall be protected by tight-fitting doors, windows, or screens.

34.3(3) Dogs, cats, or other pets and animals shall be excluded from entering food preparation areas when food is being processed or packaged.

34.3(4) Persons unnecessary to the production of homemade food items are not allowed in food processing areas while homemade food items are exposed or being produced.

34.3(5) Adequate lighting and ventilation shall be available in all areas where food is processed or stored.

34.3(6) An establishment shall have an adequate supply of hot and cold potable water under pressure from an approved and safe source. In addition:

- a. There shall be no direct or indirect connection of safe and unsafe water;
- b. If the residence is not served by a public water system, the water shall be tested at least annually for nitrates and coliforms;
- c. In the event a water test shows coliforms are present or nitrates are at an unsafe level, the establishment shall cease operations and notify the regulatory authority. The establishment will not resume operations until approved by the regulatory authority; and
- d. If the establishment's water source is under a water advisory indicating the water may be unsafe to consume, it shall not produce homemade food items until the advisory is lifted.

34.3(7) There shall be a conveniently located sink in each food processing area that is maintained clean and accessible for handwashing during production and packaging and supplied with hot and cold running water, hand soap, and sanitary towels.

34.3(8) An establishment shall have adequate equipment, such as a sink or dishwasher, to wash, rinse, and sanitize utensils.

34.3(9) There shall be conveniently located toilet facilities, equipped with a handwashing sink supplied with hot and cold running water, hand soap and sanitary towels or a hand-drying device.

34.3(10) All waste and wastewater produced by the establishment shall be disposed of in a sanitary manner in compliance with applicable laws. If the home food processing establishment has a waste backup, it shall cease operation and notify the regulatory authority. It will not resume preparation of homemade food items until approved by the regulatory authority.

34.3(11) All garbage and refuse shall be kept in containers and removed from the premises regularly to eliminate insects and rodents, offensive odors, or other health hazards. Garbage and refuse containers

shall be durable, easy to clean, insect- and rodent-resistant, and of material that neither leaks nor absorbs liquid.

34.3(12) Food processing and storage areas shall be free of pests. Pesticides, if used, shall be approved for use in commercial food establishments, clearly labeled, and used as directed by the manufacturer.

34.3(13) Hazardous chemicals or other toxic materials shall be stored, applied and used as directed by the manufacturer in a manner that protects food, equipment, and food contact surfaces from contamination.

34.3(14) Refrigeration and hot holding equipment design and capacity shall be adequate to maintain safe temperature control, including safe cooling temperatures, to prevent cross contamination and allergen cross contact and protect food from other sources of contamination. Dedicated refrigeration or hot holding equipment may be required if shared equipment is inadequate to maintain food safety.

34.3(15) All refrigeration and hot holding units shall be equipped with an accurate thermometer.

34.3(16) Appropriate thermometers shall be used to accurately measure the internal temperature of food during processing, holding, and storage.

34.3(17) All food contact surfaces shall be intended for use with food, made of safe materials, easy to clean, smooth, durable, nonabsorbent, and noncorrosive.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.4(137D) Management and personnel.

34.4(1) *Person in charge.* There shall be a person in charge of operations during all hours of food processing who has a thorough understanding of food safety principles and is able to demonstrate control over food safety hazards, including:

- a. Time/temperature controls for cooking, hot holding, cooling, cold holding, and reheating foods;
- b. Cross contamination during storage and preparation;
- c. Major food allergens and allergen cross contact;
- d. Sanitation of food contact surfaces;
- e. Food handling, hygienic practices, and communicable diseases;
- f. Receiving and distribution; and
- g. If applicable, pH and (a_w).

34.4(2) *Food safety training.* The person in charge shall attend a food safety training course approved by the department and provide proof of attendance prior to the issuance of a home food processing establishment license.

34.4(3) *Exclusions from handling food.* A food handler shall be excluded from handling food, utensils, or packaging materials if the food handler:

- a. Is diagnosed with a communicable or contagious disease that can be transmitted through food;
- b. Has experienced diarrhea or vomiting in the past 24 hours;
- c. Is jaundiced;
- d. Has a sore throat with a fever; or
- e. Has exposed sores or infected wounds on the food handler's hands or arms.

34.4(4) *Hygienic practices.*

a. A food handler must keep the food handler's person and clothing clean and hair effectively restrained and wash the food handler's hands as often as necessary to protect food and food contact surfaces from contamination.

b. Ready-to-eat foods must not be handled with bare hands.

c. Eating, drinking, and use of tobacco is not permitted in food processing areas while homemade food items are exposed or being produced.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.5(137D) Receiving, storage, and distribution.

34.5(1) *Receiving.* All foods and ingredients shall be obtained from an approved source and have been produced in compliance with applicable law. Honey from an unlicensed establishment and eggs from the establishment's own flock may be used in the preparation of homemade food items. All

food shall be received in sound condition; at safe temperatures; free from spoilage, filth, or other contamination; unadulterated; and safe for human consumption.

34.5(2) Storage. Food storage areas shall be clean and located in an area that protects the food from contamination at all times. All food products shall be stored off of the floor. If removed from the original container, foods shall be stored in labeled and closed containers that are of a material that will not cause the food to become adulterated.

34.5(3) Distribution.

a. Foods containing raw or undercooked foods of animal origin will not be sold or distributed in a ready-to-eat form.

b. Foods produced in a home food processing establishment shall not be distributed for further processing by a food processing plant or another home food processing establishment.

c. Time/temperature control for safety homemade food items shall be maintained at safe temperatures during shipping and transportation to an end consumer, a mobile food unit, a farmers market food establishment, or a temporary food establishment operated by the same owner as the home food processing establishment.

d. Time/temperature control for safety homemade food items sold or distributed to other businesses for resale shall be maintained at or below 41°F during shipping and transportation.

e. No one may produce, distribute, offer for sale, or provide adulterated food to the public. Adulterated food shall be disposed of in a reasonable manner approved by the department.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.6(137D) Food preparation and protection.

34.6(1) Food protection. Foods shall be processed, stored, and distributed in a manner that protects food from contamination, including cross contamination from the environment, and allergen cross contact.

34.6(2) Cooking. All animal foods or foods containing animal products, if cooked, shall be cooked to an internal temperature sufficient to destroy organisms that are injurious to health. Homemade food items shall not contain raw or undercooked animal foods except for packaged raw meat or poultry items labeled with safe handling instructions informing the consumer how to safely store, prepare, and handle raw meat and poultry products in the home.

34.6(3) Holding. All time/temperature control for safety foods shall be held at an internal temperature of 41°F or less or 135°F or higher to control bacterial growth or toxin formation.

34.6(4) Cooling.

a. Time/temperature control for safety foods that have been heat-treated shall be cooled from 135°F to 70°F within two hours and from 70°F to 41°F within an additional four hours. Total cooling time shall not exceed six hours.

b. Time/temperature control for safety foods prepared with ingredients above 41°F shall be cooled to 41°F or below within four hours from the beginning of preparation.

34.6(5) Reheating.

a. Homemade food items that are time/temperature control for safety and have been previously heated and cooled shall be reheated to an internal temperature of 165°F within two hours or less.

b. Commercially processed time/temperature control for safety foods shall be reheated to 135°F within two hours or less.

34.6(6) Preparation methods.

a. High-acid foods that are produced and sold by the establishment and that are controlled by pH, such as barbeque sauce, condiments, and dressings, may be produced as homemade food items if:

- (1) The product has been produced following a standardized recipe;
- (2) The product does not contain more than 10 percent low-acid food ingredients by weight;
- (3) The product recipe, including the name and weight of each ingredient, is submitted and approved by the regulatory authority;

(4) The product's equilibrium pH of each batch is tested with a calibrated pH tester designed for use with food. The pH shall be below 4.60, and the pH value shall be recorded on a production or batch record; and

(5) The product is adequately heated to destroy spoilage organisms.

b. Dried foods that are produced and sold under the home food processing establishment license that are controlled by (a_w), such as dehydrated or freeze-dried food may be produced as a homemade food item if:

(1) The products have been produced following a standardized recipe;

(2) The homemade food items do not contain raw or undercooked foods of animal origin; and

(3) Each batch is tested for (a_w) or the standardized written procedure for each homemade food item has been validated to ensure the final product is at or below 0.85 (a_w).

c. Jams, jellies, preserves, and fruit butters that are produced and sold under the home food processing establishment license shall meet the standard of identity specified in 21 CFR Part 150 as amended to April 1, 2023, and be produced following a standardized recipe. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets the standard of identity when requested by the regulatory authority.

d. Nonstandardized fruit jellies shall be produced following a standardized recipe and made with 45 parts of fruit to 55 parts of sugar and concentrated to 65 percent soluble solids. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets this requirement when requested by the regulatory authority.

e. Nonstandardized nonfruit jellies shall be produced following a standardized recipe and shall have a soluble solids content of 65 percent. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets this requirement when requested by the regulatory authority.

f. Standardized sweeteners and table syrups shall meet the standard of identity specified in 21 CFR Part 168 as amended to April 1, 2023. The home food processing establishment shall provide documentation that a product meets this requirement when requested by the regulatory authority.

g. A home food processing establishment that wishes to prepare foods using fermentation shall submit an HACCP plan to the department that has been validated by a recognized process authority, such as those provided on the department's website. A home food processing establishment shall not ferment food until the department has approved the HACCP plan.

h. A home food processing establishment shall not engage in the following processes to produce homemade food items:

(1) Low-acid canning (e.g., canned vegetables);

(2) Acidification to produce shelf-stable acidified foods (e.g., salsa, pickled vegetables, hot sauce);

(3) Curing (e.g., bacon, jerky, meat sticks); or

(4) Smoking food for preservation rather than flavor enhancement.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.7(137D) Packaging and labeling requirements.

34.7(1) *Legible labels.* All required labeling information shall be legible and in a location that is easily identifiable by the consumer.

34.7(2) *Labels and packaging on homemade food items, exception.* A homemade food item shall be packaged in the home food processing establishment, and all required labeling shall be affixed to the homemade food item before it is delivered to the consumer, with the exception of a homemade food item picked up by the consumer in person at the home food processing establishment. In the case of the exception, the homemade food item shall still be protected from contamination and all required labeling information shall be provided to the consumer.

34.7(3) *Raw meat and poultry products.* Packaged homemade food items that contain raw meat or poultry shall be labeled with safe handling instructions informing the consumer how to safely store, prepare, and handle raw meat and poultry products in the home.

34.7(4) Expiration date. Refrigerated time/temperature control for safety homemade food items that are ready-to-eat foods shall be labeled with an expiration date not to exceed seven days from the date of preparation, and the date of preparation is counted as day one. Time/temperature control for safety homemade food items may be labeled with an expiration date that exceeds seven days if the expiration date has been determined to be safe by an accredited food science institution and documentation is provided to the regulatory authority upon request.

34.7(5) Contents.

- a. Homemade food items will be identified as required by Iowa Code section 137D.2(7).
- b. Labels or other marketing materials associated with homemade food items must be truthful and not misleading.
- c. Claims on labels or other marketing materials associated with homemade food items that are related to the following must conform to the United States Food and Drug Administration's (FDA's) Food Labeling Guide (January 2013). A link to the labeling guide may be found on the department's website or on the FDA's website.
 - (1) Health claims;
 - (2) Qualified health claims;
 - (3) Nutrient content claims (e.g., low sodium, high fiber, low fat, sugar free); or
 - (4) Structure/function claims.
- d. Homemade food items labeled or marketed as a special dietary use food will conform to 21 CFR Part 105 as amended to April 1, 2023. The home food processing establishment shall provide documentation, such as a nutritional analysis by an accredited food laboratory, to the regulatory authority upon request.
- e. Labels or other marketing materials shall not contain any claims that the homemade food item can be used in the diagnosis, cure, mitigation, treatment, or prevention of disease.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.8(137D) Sanitation.

34.8(1) There shall be sufficient means to clean, rinse, and sanitize all multi-use food contact surfaces. Cleaners and sanitizers used for these purposes shall be intended and approved for use in a commercial food establishment.

34.8(2) All food contact surfaces shall be clean to sight and touch when not in use.

34.8(3) All food contact surfaces shall be cleaned and sanitized:

- a. Between each use;
- b. At least every four hours if under continuous use to control microbial growth;
- c. At a frequency necessary to prevent cross contamination; and
- d. At a frequency necessary to prevent allergen cross contact.

34.8(4) If chemical sanitizers are used, they shall be used according to the manufacturer directions for use, and a means shall be provided for testing the proper level of chemical concentration, such as test strips designed specifically for the chemical being used.

34.8(5) Food processing, handling, and storage areas shall be neat; clean; and free from excessive accumulation of product, dust, trash, and unnecessary articles.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.9(137D) Maintenance of records by licensee.

34.9(1) An establishment shall maintain standardized recipes for each homemade food item.

34.9(2) An establishment shall maintain production or batch records, including, at a minimum, product name, date of production, and date of packaging, with the exception of made-to-order food.

34.9(3) An establishment shall maintain records of foods received as ingredients, including, at a minimum, the name and address of the supplier, name of the ingredient, and date received. A receipt of purchase is a sufficient record if it contains all of the required information.

34.9(4) An establishment shall maintain distribution records of all homemade food items that are distributed for resale, including the product name, the name and address of the business where the

homemade food items were distributed, the date distributed, the quantity distributed, and the date the homemade food item was produced.

34.9(5) An establishment not served by a public water system shall maintain records of annual water tests.

34.9(6) An establishment, if it produces homemade food items that require food safety parameters to be monitored throughout production, such as temperature, pH, or (a_w), shall use testing instruments as directed by the manufacturer and calibrated for accuracy according to the manufacturer's instructions. Monitoring results shall be documented as part of the batch record.

34.9(7) An establishment shall maintain all required records for a minimum of six months. All required records shall be made available for official review or copying upon request by the regulatory authority.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.10(137D) Violations and enforcement.

34.10(1) All violations shall be corrected within a time frame not to exceed 90 days. The license holder shall make a written report to the regulatory authority, stating the action taken to correct the violation, within five days of correction.

34.10(2) An establishment that violates this chapter or Iowa Code chapter 137D is subject to a civil penalty as set forth in Iowa Code chapter 137D.

34.10(3) The department may employ various remedies in response to violations, including but not limited to civil penalty; suspending or revoking the license; injunction; or embargo, stop-sale, or recall orders.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.11(137D) Denial, suspension, or revocation of license.

34.11(1) *Denial, suspension, or revocation of a license.* Denial, suspension, or revocation of a license is effective 30 days after mailing or personal service of the notice. The department may suspend or revoke a license as set forth in Iowa Code section 137D.8. A certified copy of a final order or judgment of conviction or plea of guilty is conclusive evidence of a conviction.

A deferred judgment, until discharged, is a conviction for purposes of this rule.

34.11(2) *Immediate suspension of license.* To the extent not inconsistent with Iowa Code chapters 17A and 137D and rules adopted pursuant to those chapters, the department or a contractor may immediately suspend a license in cases of an imminent health hazard, as defined by chapter 8 of the 2017 FDA Food Code (the "food code"). The procedures of Iowa Code section 17A.18A and chapter 8 of the food code shall be followed in cases of an imminent health hazard.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.12(137D) Inspection and access to records.

34.12(1) Home food processing establishments will be periodically inspected based on a risk assessment basis, either in person or virtually using video technology.

34.12(2) The regulatory authority may enter a food processing establishment at any reasonable hour to make an inspection. The regulatory authority will inspect only those areas related to preparing or storing food for sale. The manager or person in charge of the establishment shall afford free access to records and every part of the premises where homemade food items and ingredients are stored or prepared and render all aid and assistance necessary to enable the regulatory authority to make a thorough and complete inspection.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.13(137D) Public examination of records.

34.13(1) *Public information.* Information collected by the department and contractors is public information unless otherwise provided for by law. Records are stored in computer files and are not matched with any other data system. Inspection reports are available for public viewing at iowa.safefoodinspection.com.

34.13(2) Confidential information.

a. The following are examples of confidential records:

- (1) Trade secrets and proprietary information, including items such as formulations, standardized recipes, processes, policies and procedures, and customer lists;
 - (2) Health information related to foodborne illness complaints and outbreaks;
 - (3) The name or any identifying information of a person who files a complaint with the department;
- and
- (4) Other state or federal agencies' records.

b. A party claiming that information submitted to the department contains trade secrets or proprietary information should clearly mark those portions of the submission as confidential/trade secret.

34.13(3) Other agencies' records. Requests for records of other state or federal agencies will be referred to the appropriate agency.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.14(137D) Appeals. An establishment may contest adverse action taken pursuant to this chapter by submitting a request for hearing to the department within 30 days of the mailing or service of the department's action. Appeals and hearings are governed by 481—Chapter 9. For contractors, license holders shall have the opportunity for a hearing before the local board of health. If the hearing is conducted before the local board of health, the license holder may appeal to the department and shall follow the process for review in rule 481—9.3(10A,17A).

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 137D.

[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]

[Filed 8/5/88, Notice 6/29/88—published 8/24/88, effective 9/28/88]

[Filed 4/12/91, Notice 3/6/91—published 5/1/91, effective 6/5/91]

[Filed 9/10/92, Notice 7/22/92—published 9/30/92, effective 11/4/92]

[Filed 9/1/99, Notice 7/28/99—published 9/22/99, effective 10/27/99]

[Filed 7/5/00, Notice 5/31/00—published 7/26/00, effective 8/30/00]

[Filed 3/21/08, Notice 12/5/07—published 4/9/08, effective 7/1/08]

[Filed ARC 3189C (Notice ARC 3051C, IAB 5/10/17), IAB 7/5/17, effective 8/9/17]

[Filed ARC 6569C (Notice ARC 6454C, IAB 8/10/22), IAB 10/5/22, effective 11/9/22]

[Filed ARC 7810C (Notice ARC 7157C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 4
EMPLOYERS

[Prior to 6/9/04, see 581—Ch 21]

495—4.1(97B) Covered employers.

4.1(1) Definition. All public employers in the state of Iowa, its cities, counties, townships, agencies, political subdivisions, instrumentalities and public schools are required to participate in IPERS. For the purposes of these rules, the following definitions also apply:

a. "Political subdivision" means a geographic area or territorial division of the state which has responsibility for certain governmental functions. Political subdivisions are characterized by public election of officers and taxing powers. The following examples are representative: cities, municipalities, counties, townships, schools and school districts, drainage and levee districts, and utilities.

b. "Instrumentality of the state or a political subdivision" means an independent entity that is organized to carry on some specific function of government. Public instrumentalities are created by some form of governmental body, including federal and state statutes and regulations, and are characterized by being under the control of a governmental body. Such control may include final budgetary authorization, general policy development, appointment of a board by a governmental body, and allocation of funds.

c. "Public agency" means state agencies and agencies of political subdivisions. Representative examples include an executive board, commission, bureau, division, office, or department of the state or a political subdivision.

d. Effective July 1, 1994, the definition of employer includes an area agency on aging that does not offer an alternative plan to all of its employees that is qualified under the federal Internal Revenue Code.

Covered employers include, but are not limited to: the state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities, including their hospitals, park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including waterworks, gasworks, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions.

An entity not already reporting to IPERS which meets the conditions for becoming an IPERS-covered employer shall immediately contact IPERS to provide notice which includes the name and address of the entity and other information required by IPERS. If, after review of this information, IPERS determines that the entity should be enrolled as a covered employer, IPERS will notify the entity and provide an IPERS account number for the entity to use when submitting information. IPERS shall not be required to provide benefits otherwise available under Iowa Code chapter 97B for periods of service prior to the effective date for which IPERS actually approves the entity for coverage, unless the employer agrees to pay the full actuarial cost of providing such benefits.

An employer may request a revised beginning date for its status as a covered employer. The employer must submit acceptable proof to IPERS that its status as a covered employer began earlier than the date previously provided. In such case, the employer shall provide IPERS coverage retroactively to all employees providing services to that employer on or after the revised beginning date and shall pay all actuarial costs.

4.1(2) Name change. Any employer which has a change of name, address, title of the employer, its reporting official or any other identifying information shall immediately give notice in writing to IPERS. The notice shall provide IPERS with the following information:

- a.* Former name;
- b.* Former address;
- c.* IPERS account number;
- d.* New name, address, and telephone number of the employer;
- e.* Reason for the change if other than a change of reporting official; and
- f.* Effective date of the change.

4.1(3) Termination. Any employer which terminates or is dissolved for any reason shall provide IPERS with the following:

- a. Complete name and address of the dissolved entity;
- b. Assigned IPERS account number;
- c. Last date on which wages were paid;
- d. Date on which the entity dissolved;
- e. Reason for the dissolution;
- f. Whether or not the entity expects to pay wages in the future;
- g. Whether the entity is being absorbed by another covered employer;
- h. Name and address of absorbing employer if applicable; and
- i. Name and address of employer that will retain the records of the dissolved entity.

4.1(4) Reports of dissolved or absorbed employers. An employer that has been dissolved or entirely absorbed by another employer is required to file a monthly report with IPERS through the effective date on which it was dissolved or absorbed. Any wages paid after this date are reported under the account number assigned to the new or successor employer, if any.

4.1(5) IPERS account number. Each employer is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to IPERS.

4.1(6) Patient advocates. For patient advocates employed under Iowa Code section 229.19, the county or counties for which services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible for forwarding reports and for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.

[ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—4.2(97B) Records to be kept by the employer.

4.2(1) General. Each employer shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

4.2(2) Required information. Records shall show with respect to each employee:

- a. Employee's name, address, gender, and social security account number, and other demographic information that may be required;
- b. Each date the employee was paid wages or other wage equivalent (e.g., room, board);
- c. Total amount of wages paid on each date including noncash wage equivalents;
- d. Total amount of wages including wage equivalents on which IPERS contributions are payable;
- e. Amount withheld from wages or wage equivalents for the employee's share of IPERS contributions; and
- f. Effective January 1, 1995, records will show, with respect to each employee, member contributions picked up by the employer.

4.2(3) Reports.

a. Each employer shall make reports as IPERS may require and shall comply with the instructions provided by IPERS for the reports.

b. Effective July 1, 2021, employers shall report the termination date and date of final paycheck for all terminating employees to IPERS with the final wage report for such employee. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

c. The Iowa department of administrative services and the Iowa department of corrections shall notify IPERS prior to adding additional job classifications to the protection occupation class. The notification shall include the effective date, names and social security numbers of the employees involved.

4.2(4) Fees. IPERS may assess to the employer a fee for administrative costs as described in subrule 4.3(6).

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 5489C, IAB 3/10/21, effective 4/14/21]

495—4.3(97B) Wage reporting and payment of contributions by employers.

4.3(1) Payment of contributions. For wages paid on or after July 1, 2008, all covered employers are required to pay contributions on a monthly basis. Upon enrollment as an IPERS-covered employer,

the employer shall receive the appropriate forms and instructions from IPERS to submit contributions. IPERS will provide monthly statements to each employer.

IPERS accepts the payment of contributions through electronic funds transfer. Payments utilizing the electronic funds transfer system shall be made according to the procedure described in subrule 4.3(3).

IPERS accepts the payment of contributions using checks and remittance advice forms. Employers filing monthly employer remittance advice forms on paper for two or more employers shall attach the checks to each remittance form. Checks shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice form to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Effective August 1, 2008, such payments and reports shall be subject to a fee as described in subrule 4.3(6).

4.3(2) *Wage reports.* For wages paid on or after July 1, 2008, all IPERS-covered employers are required to file wage reports on a monthly basis. IPERS will provide the forms and instructions for wage reporting to employers. Each wage report must include the required information for all employees who earned reportable wages or wage equivalents under IPERS. The reports must be received by IPERS on or before the fifteenth day of the month following the month in which the wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the wage report is due on the next regularly scheduled business day.

Effective August 1, 2008, IPERS shall accept wage reports electronically via IPERS' employer self-service Internet application or as a paper report. However, for those employers submitting reports other than via IPERS' employer self-service Internet application, IPERS shall charge a fee as described in subrule 4.3(6).

4.3(3) *Deadlines for payment of contributions.*

a. Contributions must be paid monthly and must be received by IPERS on or before the fifteenth day of the month following the month in which wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the contribution is due on the next regularly scheduled business day.

b. For employers paying contributions by electronic funds transfer, wage reports and contributions may be submitted at the same time.

4.3(4) *Request for time extension.* A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if a request is made before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to submit the wage report or pay the contribution on or before the end of the extension period, the applicable interest and fees shall be charged and paid from the original due date as if no extension had been granted. If the fifteenth day falls on a weekend or state-observed holiday, the contribution or wage report is due on the next regularly scheduled business day.

To establish good cause for an extension of time to file a wage report or pay contributions, the employer must show that the delinquency was not due to mere negligence, carelessness or inattention. The employer must affirmatively show that it did not file the wage report or timely pay a contribution because of some occurrence beyond the control of the employer.

4.3(5) *No reportable wages.* When an employer has no reportable wages during the applicable reporting period, the wage reporting document shall be filed according to subrule 4.3(2). Even if there are no reportable wages, the employer's account is considered delinquent for the reporting period and is subject to a fee until the report is filed. However, if the employer has notified IPERS on or before the due date that there are no wages to report, IPERS will adjust the due date, and no fee will be charged.

4.3(6) *Fees for noncompliance.* IPERS is authorized to impose reasonable fees on employers that do not file wage reports through the IPERS' employer self-service Internet application as described in subrule 4.3(2), that fail to timely file accurate wage reports, or that fail to pay contributions when due pursuant to subrule 4.3(3).

For submissions filed on or after August 1, 2008, IPERS shall charge employers a processing fee of \$20 plus 25 cents per employee for late submissions and manual processing of wage reports by IPERS. Employers that are late or that do not use IPERS' employer self-service Internet application may be charged both fees. In addition, if a fee for noncompliance is not paid by the fifteenth day of the month after the fee is assessed, the fee will accrue interest daily at the interest rate provided in Iowa Code

sections 97B.9 and 97B.70. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full.

If the due date for a fee falls on a weekend or state-observed holiday, the due date shall be the next regularly scheduled business day.

4.3(7) *Erroneously reported wages for employees not covered under IPERS.* Employers that erroneously report wages for employees who are not eligible for coverage under IPERS may file an IPERS wage reporting adjustment form. IPERS shall return a warrant or issue a credit for both the employer and employee contributions made in error. The employer is responsible for returning the employees' share and for filing corrected federal and state wage reporting forms. Adjustments in such cases will be reported on the employer's monthly statement. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on an IPERS refund application form will not be permitted to file a periodic wage reporting adjustment form for that employee for the same time period. No fee will be assessed to employers that correct information as provided under this subrule.

4.3(8) *Contributions paid on wages in excess of the annual covered wage maximum.* For wages paid on or after July 1, 2008, whenever IPERS determines that an employee's wages will exceed the annual maximum established under Section 401(a)(17)(A) and the cost-of-living adjustments to that maximum permitted under Section 401(a)(17)(B) of the Internal Revenue Code during a given month, IPERS shall notify the applicable employer and shall return the related excess contributions. IPERS will detail on the monthly report those employees for whom wages were reported in excess of the covered wage ceiling. The employer is responsible for returning the employee's share of excess contributions and making the applicable tax corrections.

4.3(9) *Termination within less than six months of the date of employment.* If an employee hired for permanent employment terminates within six months of the date of employment, the employer may file an IPERS form for reporting adjustments to receive a warrant or a credit, as elected by the employer, for both the employer's and employee's portions of the contributions. It is the responsibility of the employer to return the employee's share. "Termination within less than six months of the date of employment" means employment is terminated prior to the day before the employee's six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

4.3(10) *Reinstatement following an employment dispute.* Employees who are reinstated following an employment dispute may restore membership service credit as described in 495—9.5(97B).

[ARC 9397B, IAB 2/23/11, effective 3/30/11; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—4.4(97B) *Accrual of interest and application of employer payments.* Interest or charges as provided under Iowa Code section 97B.9 shall accrue on all employer payments not received by IPERS by the due date, except that interest or charges may be waived by IPERS if the employer requests an extension of time under subrule 4.3(4) prior to the due date. Effective August 1, 2008, employers that remit late contributions shall be charged a minimum of \$20 or interest at the rate provided in Iowa Code section 97B.70, whichever is greater. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full. Payments received from employers having unpaid account balances shall first be applied to the oldest outstanding balance.

495—4.5(97B) *Credit memos voided.* Rescinded IAB 3/26/08, effective 4/30/08.

495—4.6(97B) *Contribution rates.* The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) *Contribution rates for regular class members.*

a. The following contribution rates were established by the Iowa legislature for all regular class members for the indicated periods:

	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010	Effective July 1, 2011
Combined rate	9.95%	10.45%	10.95%	11.45%	13.45%
Employer	6.05%	6.35%	6.65%	6.95%	8.07%
Employee	3.90%	4.10%	4.30%	4.50%	5.38%

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rulemaking that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024
Combined rate	15.73%	15.73%	15.73%	15.73%	15.73%
Employer	9.44%	9.44%	9.44%	9.44%	9.44%
Employee	6.29%	6.29%	6.29%	6.29%	6.29%

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024
Combined rate	18.52%	18.02%	17.52%	17.02%	17.02%
Employer	9.26%	9.01%	8.76%	8.51%	8.51%
Employee	9.26%	9.01%	8.76%	8.51%	8.51%

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024
Combined rate	16.02%	15.52%	15.52%	15.52%	15.52%
Employer	9.61%	9.31%	9.31%	9.31%	9.31%
Employee	6.41%	6.21%	6.21%	6.21%	6.21%

4.6(4) Members employed in a “protection occupation” shall include:

a. Conservation peace officers. Effective July 1, 2002, all conservation peace officers, state and county, as described in Iowa Code sections 350.5 and 456A.13.

b. Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400 or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See employee classifications in rule 495—5.1(97B).) Effective January 1, 1995, part-time police officers shall be included.

c. Correctional officers as provided for in Iowa Code section 97B.49B. Employees who, prior to December 22, 1989, were in a “correctional officer” position but whose position is found to no longer meet this definition on or after that date shall retain coverage, but only for as long as the employee is in that position or another “correctional officer” position that meets this definition. Movement to a position that does not meet this definition shall cancel “protection occupation” coverage.

d. Airport firefighters employed by the military division of the department of public defense (airport firefighters). Effective July 1, 2004, airport firefighters become part of and shall make the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1994, through June 30, 2004, airport firefighters were grouped with and made the same contributions

as sheriffs and deputy sheriffs. From July 1, 1988, through June 30, 1994, airport firefighters were grouped with and made the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1986, through June 30, 1988, airport firefighters were a separate protection occupation group and made contributions at a rate calculated for members of that group. Prior to July 1, 1986, airport firefighters were grouped with regular members and made the same contributions as regular members.

Notwithstanding the foregoing, all airport firefighter service prior to July 1, 2004, shall be coded by IPERS as sheriff/deputy sheriff/airport firefighter service, and all airport firefighter service after June 30, 2004, shall be coded by IPERS as protection occupation service. This coding, however, shall not supersede provisions of this title that require members to make contributions at higher rates in order to receive certain benefits, such as in the hybrid formula pursuant to 495—12.4(97B).

e. Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city with a population of 100,000 or more, and employees covered by the Iowa Code chapter 8A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

f. Effective July 1, 1990, an employee of the state department of transportation who is designated as a “peace officer” by resolution under Iowa Code section 321.477.

g. Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

h. Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district department of correctional services.

i. Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district department of correctional services.

j. Effective July 1, 2008, county jailers and detention officers working as jailers.

k. Effective July 1, 2008, National Guard installation security officers.

l. Effective July 1, 2008, emergency medical care providers.

m. Effective July 1, 2008, special investigators who are employed by county attorneys.

n. Effective July 1, 2014, an employee of the insurance division of the department of commerce who as a condition of employment is required to be certified by the Iowa law enforcement academy and who is required to perform the duties of a peace officer as provided in Iowa Code section 507E.8.

o. Effective July 1, 2014, an employee of a judicial district department of correctional services whose condition of employment requires the employee to be certified by the Iowa law enforcement academy and who is required to perform the duties of a parole officer as provided in Iowa Code section 906.2.

p. Effective July 1, 2016, a peace officer employed by an institution under the control of the state board of regents whose position requires law enforcement certification pursuant to Iowa Code section 262.13.

q. Effective July 1, 2016, a person employed by the department of human services as a psychiatric security specialist at a civil commitment unit for sexually violent offenders facility.

4.6(5) Service reclassification.

a. Prior to July 1, 2006, except as otherwise indicated in the implementing legislation or these rules, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall be coded by IPERS staff as special service if certified by the employer as constituting special service under current law. No additional contributions shall be required by regular service reclassified as special service under this paragraph.

b. Effective July 1, 2006, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall continue to be coded by IPERS staff as regular service unless the legislature specifically provides in its legislation for payment of the related actuarial costs of such reclassified service as required under Iowa Code section 97B.65.

4.6(6) Effective July 1, 2006, in the determination of a sheriff's or deputy sheriff's eligibility for benefits and the amount of such benefits under Iowa Code section 97B.49C, all protection occupation service credits for that member shall count toward the total years of eligible service as a sheriff or deputy sheriff. However, this subrule shall not be construed to alter the statutory requirement that a sheriff or deputy sheriff must be employed as a sheriff or deputy sheriff at termination of covered employment in order to qualify for benefits under Iowa Code section 97B.49C.

4.6(7) Pretax.

a. Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

b. Salaries reportable for purposes other than federal income tax will not be reduced, including for IPERS, FICA, and, through December 31, 1998, state income tax purposes.

c. Effective January 1, 1999, employers must pay member contributions on a pretax basis for both federal and state income tax purposes.

[ARC 7591B, IAB 2/25/09, effective 7/1/09; ARC 7759B, IAB 5/6/09, effective 4/17/09; ARC 7916B, IAB 7/1/09, effective 8/5/09; ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 9397B, IAB 2/23/11, effective 3/30/11; ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21; ARC 6215C, IAB 2/23/22, effective 3/30/22; ARC 6949C, IAB 3/8/23, effective 4/12/23; ARC 7811C, IAB 4/17/24, effective 5/22/24]

495—4.7(97B) Employee information to be provided by covered employers. Covered employers are required to enroll new employees prior to reporting wages for the new employees using IPERS' employer self-service Internet application. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, date of hire, occupation code, gender, mailing address, and employer identification number. When an employee terminates employment with a covered employer, the employer shall provide the termination date and the date of the employee's final paycheck.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—4.8(97B) Additional employer contributions from employer-mandated reduction in hours or by the exercise of bumping rights to avoid a layoff. Rescinded ARC 2981C, IAB 3/15/17, effective 4/19/17.

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, 97B.65 and 97B.70 and 2009 Iowa Acts, chapter 170, section 51, as amended by 2010 Iowa Acts, House File 2518, sections 36 and 41.

[Filed 5/21/04, Notice 4/14/04—published 6/9/04, effective 7/14/04]

[Filed emergency 6/4/04—published 6/23/04, effective 7/1/04]

[Filed 7/30/04, Notice 6/23/04—published 8/18/04, effective 9/22/04]

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]

[Filed 5/6/05, Notice 3/30/05—published 5/25/05, effective 7/1/05]

[Filed 12/1/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]

[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

[Filed 11/3/06, Notice 9/27/06—published 11/22/06, effective 12/27/06]

[Filed 5/3/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]

[Filed 3/7/08, Notice 1/2/08—published 3/26/08, effective 4/30/08]

[Filed emergency 6/25/08—published 7/16/08, effective 6/25/08]

[Filed 8/20/08, Notice 7/16/08—published 9/10/08, effective 10/15/08]

[Filed ARC 7591B (Notice ARC 7453B, IAB 12/31/08), IAB 2/25/09, effective 7/1/09]

[Filed Emergency ARC 7759B, IAB 5/6/09, effective 4/17/09]

[Filed ARC 7916B (Notice ARC 7760B, IAB 5/6/09), IAB 7/1/09, effective 8/5/09]

[Filed ARC 8601B (Notice ARC 8477B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]

[Filed Emergency ARC 8929B, IAB 7/14/10, effective 6/21/10]
[Filed ARC 9068B (Notice ARC 8928B, IAB 7/14/10), IAB 9/8/10, effective 10/13/10]
[Filed ARC 9397B (Notice ARC 9310B, IAB 12/29/10), IAB 2/23/11, effective 3/30/11]
[Filed ARC 0017C (Notice ARC 9951B, IAB 12/28/11), IAB 2/22/12, effective 3/28/12]
[Filed ARC 0662C (Notice ARC 0598C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 1887C (Notice ARC 1800C, IAB 12/24/14), IAB 2/18/15, effective 3/25/15]
[Filed ARC 2402C (Notice ARC 2331C, IAB 12/23/15), IAB 2/17/16, effective 3/23/16]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
[Filed ARC 3684C (Notice ARC 3537C, IAB 1/3/18), IAB 3/14/18, effective 4/18/18]
[Filed ARC 4337C (Notice ARC 4238C, IAB 1/16/19), IAB 3/13/19, effective 4/17/19]
[Filed ARC 5027C (Notice ARC 4925C, IAB 2/12/20), IAB 4/8/20, effective 5/13/20]
[Filed ARC 5489C (Notice ARC 5359C, IAB 12/30/20), IAB 3/10/21, effective 4/14/21]
[Filed ARC 6215C (Notice ARC 6117C, IAB 12/29/21), IAB 2/23/22, effective 3/30/22]
[Filed ARC 6949C (Notice ARC 6823C, IAB 1/11/23), IAB 3/8/23, effective 4/12/23]
[Filed ARC 7811C (Notice ARC 7648C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 5 EMPLOYEES

[Prior to 6/9/04, see 581—Ch 21]

495—5.1(97B) Identification of employees covered by the IPERS retirement law.

5.1(1) *Definition of employee—generally.* A person is in employment as defined by Iowa Code chapter 97B if the person and the covered employer enter into a relationship which both recognize to be that of employer/employee. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term “control” refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official may be an “employee” as defined in the agreement between the state of Iowa and the Secretary of Health and Human Services, without the element of direction and control.

A person is not in employment if the person volunteers services to a covered employer for which the person receives no remuneration.

IPERS makes employment determinations based on a common law test, which factors in behavior control, financial control and relationship of the parties. Once this decision is made, if any party disagrees with the decision, the party in disagreement will be required to submit an SS-8 Determination of Workers Status form directly to the Internal Revenue Service (IRS). Upon receipt of the determination by the IRS, IPERS will review this hiring arrangement a second time. A Final Agency Determination will be made at that time.

Further, if a person is performing essential governmental functions that can only be performed by a governmental employee, that person shall be IPERS-covered.

5.1(2) *Optional coverage procedures—July 1, 1994, through December 31, 1998.* Effective July 1, 1994, a person who is employed in a position which allows IPERS coverage to be elected as specified in Iowa Code section 97B.1A(8) must file a one-time election form with IPERS for coverage. If the person was employed before July 1, 1994, the election must be postmarked on or before July 1, 1995. If the person was employed on or after July 1, 1994, the election must be postmarked within 60 days from the date the person was employed. Coverage will be prospective from the date the election is approved by IPERS. The election, once filed, is irrevocable and continues until the member terminates covered employment. The election window does not allow members who had been in coverage to elect out.

5.1(3) *Election out of Iowa Code chapter 97B coverage by certain protection occupation groups.* Effective July 1, 1994, members employed before that date as a gaming enforcement officer, a fire prevention inspector peace officer, or an employee of the division of capitol police (except clerical workers), may elect coverage under Iowa Code chapter 97A in lieu of IPERS. The election must be directed to the board of trustees established in Iowa Code section 97A.5 and postmarked on or before July 1, 1995.

5.1(4) *Optional coverage procedures—January 1, 1999.* Effective January 1, 1999, new hires who may elect out of IPERS coverage shall be covered on the date of hire and shall have 60 days to elect out of coverage in writing using IPERS’ forms. Notwithstanding the foregoing, employees who had the right to elect IPERS coverage prior to January 1, 1999, but did not do so, shall be covered as of January 1, 1999, and shall have until December 31, 1999, to elect out of coverage.

[ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—5.2(97B) Coverage treatment for specific employee classifications. Employment as defined in Iowa Code chapter 97B is not synonymous with IPERS membership. Some classes of employees are explicitly excluded or membership is made optional under Iowa Code section 97B.1A(8) “b,” while other classes are excluded or membership is made optional by their nature. The following subrules are designed to clarify the status of certain employee positions.

5.2(1) Elected officials. Effective January 1, 1999, the following persons shall be covered by IPERS unless they elect out of coverage:

- a. Elected officials in positions for which the compensation is on a fee basis;

- b.* Elected officials of school districts;
- c.* Elected officials of townships; and
- d.* Elected officials of other political subdivisions who are in part-time positions.

An elected official who becomes covered under this chapter may later terminate membership by informing IPERS in writing of the expiration of the member's term of office or, if a member of the general assembly, of the intention to terminate coverage.

An elected official does not terminate covered employment with the end of each term of office if the official has been reelected for the same position. If elected for another position, the official shall be covered unless the official elects out of coverage.

5.2(2) County and municipal court bailiffs who receive compensation for duties shall be covered.

5.2(3) Full-time city attorneys shall be covered. Part-time city attorneys who are considered to be public officers or public employees shall be covered.

5.2(4) Magistrates shall be covered unless they elect out of IPERS coverage. Having made a choice to remain in IPERS coverage, a magistrate may not revoke that election and discontinue such coverage.

5.2(5) Office and clerical staff of a county medical examiner's office shall be covered. Effective January 1, 1995, county medical examiners and deputy county medical examiners who are full-time county employees shall be covered.

5.2(6) Police, firefighters, emergency personnel, and certain peace officers.

a. Effective July 1, 1994, police officers and firefighters of a city not participating in the retirement systems established under Iowa Code chapter 410 or 411 shall be covered.

b. Emergency personnel, such as ambulance drivers, who are deemed to be firefighters by the employer shall be covered as firefighters.

c. Effective January 1, 1995, part-time police officers shall be covered in the same manner as full-time police officers.

d. Reserve peace officers employed under Iowa Code chapter 80D shall not be covered in accordance with Iowa Code section 80D.14.

e. A police chief or fire chief who has submitted a written request to the board of trustees created by Iowa Code section 411.36 to be exempt from coverage under Iowa Code chapter 411 shall not be covered under IPERS in accordance with Iowa Code sections 384.6(1) and 411.3. The city shall make on behalf of such person the contributions required under Iowa Code section 384.6(1) to the International City Management Association/Retirement Corporation.

f. Peace officer candidates of the department of public safety shall not be covered.

g. An emergency medical care provider who provides emergency medical services, as defined in Iowa Code section 147A.1, and who is not a member of the retirement systems established in Iowa Code chapter 411 shall be covered.

5.2(7) County social welfare employees shall be covered.

5.2(8) Members of county soldiers relief commissions and their administrative or clerical employees shall be covered.

5.2(9) Part-time elected mayors, mayors of townships, and mayors who are paid on a fee basis are covered under IPERS unless they elect out of coverage. All other mayors, including appointed mayors and full-time elected mayors, whether elected by popular vote or by some other means, are covered.

5.2(10) Field assessors shall be covered.

5.2(11) Members of county boards of supervisors who receive an annual salary shall be covered. Effective for terms of office beginning January 1, 1999, part-time members of county boards of supervisors who receive an annual salary or are paid on a per diem basis shall be covered unless they elect out of coverage.

5.2(12) Temporary employees of the general assembly who are employed for less than six months in a calendar year or work less than 1,040 hours in a calendar year shall be covered unless the employee elects out of coverage. If coverage is elected, the member may not terminate coverage until termination of covered employment.

5.2(13) Effective July 1, 2008, temporary employees shall not be covered provided that they have not established an ongoing relationship with an IPERS-covered employer. An ongoing relationship with an IPERS-covered employer is established when:

a. The employee is paid covered wages of \$1,000 or more per quarter in two consecutive quarters;
or

b. The employee is employed by a covered employer for 1,040 or more hours in a calendar year.

Coverage shall begin when the permanency of the relationship is established and shall continue until the employee's relationship with the covered employer is severed. If there is no formal severance, coverage for a person hired for temporary employment who has established an ongoing relationship with a covered employer shall continue until that person completes four consecutive calendar quarters in which no services are performed for that employer after the last covered calendar quarter.

No service credit will be granted to a temporary employee who has become a covered employee under this rule for any quarter in which no covered wages are reported unless the employee is on a leave of absence that qualifies for service credit under Iowa Code section 97B.1A(20). Contributions shall be paid, and service credit shall be accrued, when wages are paid in the quarter after the ongoing relationship has been established.

5.2(14) Drainage district employees who have vested rights to IPERS through earlier participation or employees of drainage districts shall be covered unless they elect out of coverage.

5.2(15) Full-time and part-time county attorneys shall be covered.

5.2(16) Tax study committee employees shall be covered.

5.2(17) School bus drivers who are considered to be public employees shall be covered. School bus drivers who are independent contractors shall not be covered. A determination must be made by IPERS on the facts presented on a case-by-case basis.

5.2(18) Full-time or part-time students employed part-time by the educational institution where they are enrolled shall not be IPERS-covered. Full-time and part-time student status is as defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers. If the employer is not the institution where the college student is enrolled, the college student is not exempt from IPERS coverage and employers would determine IPERS coverage by applying the usual permanent or temporary rules.

High school and lower grade students continue to be exempt from IPERS coverage.

5.2(19) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants and specialists in their fields of specialized knowledge or skill shall not be covered.

5.2(20) Members of any other retirement system in Iowa maintained in whole or in part by public funds shall not be covered. However, effective July 1, 1996, an employee who has two jobs, one covered by IPERS and one covered by another retirement system in Iowa, shall remain an IPERS-covered employee, unless the employee receives credit in such other retirement system for both jobs.

5.2(21) Members who are contributing to the federal civil service retirement system or federal employees retirement system shall not be covered. However, effective July 1, 1996, an employee who has two jobs, one covered by IPERS and one covered by a federal retirement system, shall be considered as an IPERS-covered employee, unless the employee receives credit in such federal retirement system for both jobs.

5.2(22) Employees of credit unions without capital stock organized and operated for mutual purposes without profit shall not be covered.

5.2(23) Members of the ministry, rabbinate or other religious order who perform full-time or part-time religious service for a covered employer shall be covered. However, members of the ministry, rabbinate or other religious order who have taken the vow of poverty may elect out of coverage.

5.2(24) Any physician, surgeon, dentist or member of other professional groups employed full-time by a covered employer shall be covered. However, any member of a professional group who performs part-time service for any public agency but whose private practice provides the major source of income shall not be covered, except for city attorneys and health officials.

5.2(25) Interns and resident doctors employed by a state or local hospital, school or institution shall not be covered.

5.2(26) Professional personnel who acquire the status of an officer of the state of Iowa or a political subdivision thereof, even though they engage in private practice and render government service only on a part-time basis, shall be covered.

5.2(27) Effective July 1, 1994, volunteer firefighters and special police officers are considered temporary employees and shall be covered if they meet the requirements of subrule 5.2(13).

5.2(28) Residents or inmates of county homes shall not be covered.

5.2(29) Members of the state transportation commission, the board of parole, and the state health facilities council shall be covered unless they elect out of coverage.

5.2(30) Employees of an interstate agency established under Iowa Code chapter 28E, and similar enabling legislation in an adjoining state, if the city had made contributions to the system for employees performing functions which are transferred to the interstate agency shall be considered employees of the city for the sole purpose of membership in IPERS, although the employer contributions for those employees are made by the interstate agency.

5.2(31) City managers, or city administrators performing the duties of city managers, under a form of city government listed in Iowa Code chapter 372 or 420 shall be covered unless they elect out of coverage.

5.2(32) Employees appointed by the state board of regents shall be covered unless they elect coverage in an alternative retirement system qualified by the state board of regents. An employee must make an election in the alternative retirement system within 60 days of the employee's first day of employment.

5.2(33) Employees who work in additional positions with additional duties, along with normal duties with the same employer, shall be considered covered employees until all of their compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver's education instructor; and city employee/paid firefighter.)

5.2(34) Adjunct instructors employed by a community college or university shall not be covered. Adjunct instructors are persons employed by a community college or university without a continuing contract and whose teaching load does not exceed one-half time for two full semesters or three full quarters for the calendar year. The determination of whether a teaching load exceeds one-half time shall be based on the number of credit hours or noncredit contact hours that the community college or university considers to be a full-time teaching load for a regular full semester or quarter. An adjunct instructor whose teaching load exceeds the foregoing limitations shall be covered.

In determining whether an adjunct instructor is a covered employee, no credit shall be granted for teaching periods of shorter duration than a regular semester or regular quarter (such as summer semesters), regardless of the number of credit or contact hours assigned to that period.

If there is no formal severance, an adjunct instructor who becomes a covered employee shall remain a covered employee until that person completes four consecutive calendar quarters in which no services are performed for that covered employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to any adjunct instructor who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the adjunct instructor is on an approved leave of absence that qualifies for service credit under Iowa Code section 97B.1A(20).

5.2(35) Effective July 1, 1992, enrollees of a senior community service employment program authorized by Title V of the Older Americans Act and funded by the United States Department of Labor shall not be covered unless:

- a. Both the enrollee and the covered employer elect coverage; or
- b. The enrollee is currently contributing to IPERS.

For purposes of this subrule only, a covered employer is defined as the host agency where the enrollee is placed for training.

5.2(36) Employees of area agencies on aging shall be included. However, effective July 1, 1994, employees of area agencies on aging shall not be covered if the area agency has provided for

participation by all of its eligible employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code. If an area agency on aging does not participate in an alternative plan, or terminates participation in such plan, IPERS coverage shall begin immediately.

5.2(37) Effective July 1, 1994, arson investigators shall not be covered. They were transferred to the public safety peace officers' retirement, accident and disability system as found in Iowa Code chapter 97A.

5.2(38) Persons who meet the requirements of independent contractor status as determined by IPERS using the criteria established by the federal Internal Revenue Service shall not be covered.

5.2(39) Effective July 1, 1994, a person employed on or after that date for certain public safety positions shall not be covered. These positions are gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, fire prevention inspector peace officers, and employees of the division of capitol police (except clerical workers).

5.2(40) Employees of area community colleges and universities shall be covered unless they elect coverage under an alternative system pursuant to a one-time irrevocable election. An employee must make an election in the alternative retirement system within 60 days of the employee's first day of employment.

5.2(41) Volunteer emergency personnel, such as ambulance drivers and emergency medical technicians, shall be considered temporary employees and shall be covered if they meet the requirements of subrule 5.2(13). Persons who meet such requirements shall be covered under the protection occupation requirements of Iowa Code section 97B.49B if they are considered firefighters by their employers; otherwise they shall be covered under Iowa Code section 97B.1A.

5.2(42) Persons employed through any program described in Iowa Code section 84A.7 and provided by the Iowa conservation corps shall not be covered.

5.2(43) Appointed and full-time elective members of boards and commissions who receive a set salary shall be covered. Effective January 1, 1999, part-time elective members of boards and commissions not otherwise described in these rules who receive a set salary shall be covered unless they elect out of coverage. Members of boards, other than county boards of supervisors, and commissions, including appointed and elective full-time and part-time members, who receive only per diem and expenses shall not be covered.

5.2(44) Persons receiving rehabilitation services in a community rehabilitation program, rehabilitation center, sheltered workshop, and similar organizations whose primary purpose is to provide vocational rehabilitation services to target populations shall not be covered.

5.2(45) Persons who are members of a community service program authorized under and funded by grants made pursuant to the federal National and Community Service Act of 1990 shall not be covered.

5.2(46) Persons who are employed by professional employment organizations, temporary staffing agencies, and similar noncovered employers and are leased to covered employers shall not be covered.

5.2(47) Persons who are employed by a covered employer and leased to a noncovered employer shall be covered.

5.2(48) Effective July 1, 1999, persons performing referee services for a covered employer shall not be covered, unless the performance of such services is included in the persons' regular job duties for the employer for which such services are performed.

5.2(49) Effective July 1, 2000, patient advocates appointed under Iowa Code section 229.19 shall be covered.

5.2(50) Employees of the Iowa student loan liquidity corporation shall not be covered.

5.2(51) A citizen coach is an employee (permanent or temporary) who works for a school district in only a coaching capacity. An employer may provide a citizen coach with IPERS coverage immediately. If the employer chooses not to, then the following determination of IPERS coverage is needed:

a. If the citizen coach is expected to fill the position each season and cannot be unseated by another district employee, then the district and citizen coach have established a permanent relationship and IPERS coverage should begin once that citizen coach returns to coach a second season.

b. If there is no expectation of continued employment beyond the first season for the citizen coach, or if the citizen coach can be unseated by another district employee, then a temporary relationship exists and the citizen coach shall only be covered if the citizen coach meets the requirements of subrule 5.2(13). [ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 5489C, IAB 3/10/21, effective 4/14/21; ARC 6215C, IAB 2/23/22, effective 3/30/22; ARC 7811C, IAB 4/17/24, effective 5/22/24]

495—5.3(97B) Participation in IPERS and another retirement system. Effective July 1, 1996, an employee may actively participate in IPERS and another retirement system supported by public funds if the person does not receive credit under both IPERS and such other retirement system for the same position held.

[ARC 3684C, IAB 3/14/18, effective 4/18/18]

These rules are intended to implement Iowa Code sections 97B.1A, 97B.4, 97B.42, 97B.42A, 97B.49B, 97B.49C, and 97B.49G.

[Filed 5/21/04, Notice 4/14/04—published 6/9/04, effective 7/14/04]

[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

[Filed 3/7/08, Notice 1/2/08—published 3/26/08, effective 4/30/08]

[Filed ARC 0662C (Notice ARC 0598C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]

[Filed ARC 2402C (Notice ARC 2331C, IAB 12/23/15), IAB 2/17/16, effective 3/23/16]

[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]

[Filed ARC 3684C (Notice ARC 3537C, IAB 1/3/18), IAB 3/14/18, effective 4/18/18]

[Filed ARC 5489C (Notice ARC 5359C, IAB 12/30/20), IAB 3/10/21, effective 4/14/21]

[Filed ARC 6215C (Notice ARC 6117C, IAB 12/29/21), IAB 2/23/22, effective 3/30/22]

[Filed ARC 7811C (Notice ARC 7648C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 11
APPLICATION FOR, MODIFICATION OF, AND TERMINATION OF BENEFITS

[Prior to 11/24/04, see 581—Ch 21]

495—11.1(97B) Application for benefits.

11.1(1) Form used. It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

- a. Proof of date of birth for the member.
- b. Option selected, and
 - (1) If Option 1 is selected, the death benefit amount.
 - (2) If Option 4 or 6 is selected, the contingent annuitant's name, social security number, proof of date of birth, and relationship to member. The member must designate the survivor benefit percentage, which shall be limited to one of the following:
 1. One hundred percent of the member's benefit amount.
 2. Seventy-five percent of the member's benefit amount.
 3. Fifty percent of the member's benefit amount.
 4. Twenty-five percent of the member's benefit amount.
 - (3) If Option 1, 2, or 5 is selected, a list of beneficiaries.
- c. If the member has been terminated less than one year, or is applying for disability benefits, the employer certification page must be completed by the employer unless the employer has provided the termination date and date of the last paycheck on the monthly wage reports.
- d. Signature of member and spouse.
- e. If the member has no spouse, "NONE" must be designated.
- f. If the member is applying for regular disability benefits, a copy of the award letter from the Social Security Administration or railroad retirement.
- g. An indication whether the member is a U.S. citizen, resident alien, or non-U.S. citizen.

A retirement application is deemed to be valid and binding on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

11.1(2) Proof required in connection with application. Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, an identification card or driver's license issued by the state of Iowa, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver's license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

- a. United States census record;
- b. Military record or identification card;
- c. Naturalization record;
- d. A marriage license showing age of applicant in years, months and days on date of issuance;
- e. A life insurance policy;
- f. Records in a school's administrative office;
- g. An official document from the U.S. Citizenship and Immigration Services, such as a "green card," containing such information;
- h. Driver's license or Iowa nondriver identification card;

- i.* Adoption papers; or
- j.* Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.

If the member, the member's representative, or the member's beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS' status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS' intent to begin mandatory payments.

11.1(3) *Benefits estimates.* Prior to submitting an application for benefits, a member may request IPERS to prepare estimates of projected benefits under the various options as described under Iowa Code section 97B.51. A benefit estimate shall not bind IPERS to payment of the projected benefits under the various options specified in Iowa Code chapter 97B. A member cannot rely on the benefit estimate in making any retirement-related decision or taking any action with respect to the member's account, nor shall IPERS assume any liability for such actions. An estimate will not include deductions for a QDRO or any other legal assignments or orders on a member's account, unless specifically requested by the member. A member's actual benefit can only be known and officially calculated when an eligible member applies for benefits.

11.1(4) *Revocation of application.* If IPERS determines an application for benefits is invalid for any reason, IPERS shall revoke, in whole or in pertinent part, the application for benefits and the recipient shall repay all payments made under the revoked application or all payments made pursuant to the revoked part of the application. The terms of repayment shall be subject to the provisions of 495—11.7(97B).

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21]

495—11.2(97B) Retirement benefits and the age reduction factor.

11.2(1) *Normal retirement.*

a. A member shall be eligible for monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 65, if otherwise eligible.

b. Effective July 1, 1998, a member shall be eligible for full monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 62, if the member has 20 full years of service and is otherwise eligible.

c. Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 88, provided that the member is at least the age of 55 and is otherwise eligible.

11.2(2) *Early retirement.* A member shall be eligible to receive benefits for early retirement effective with the first of the month in which the member attains the age of 55 or the first of any month after attaining the age of 55 before the member's normal retirement date, provided the date is after the last day of service and the member is otherwise eligible.

11.2(3) *Aged 70 and older retirees.* A member shall be eligible to receive monthly retirement benefits with no age reduction effective with the first day of the month in which the member attains the age of 70, even if the member continues to be employed.

11.2(4) *Required beginning date.*

a. Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the required

beginning date, even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The “required beginning date” is defined as the later of:

(1) April 1 of the year following the year that the member attains the applicable age, determined as follows:

1. For members who turned age 72 before 2023, the applicable age is age 72 (or age 70 ½ if they were born before July 1, 1949), and

2. For members who will turn age 72 after 2022 and age 73 before 2033, the applicable age is age 73; or

(2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

b. If IPERS distributes a member’s benefits without the member’s consent in order to begin benefits on or before the required beginning date, the member may elect to receive benefits under an option other than the default option described above, or as a refund, if the member contacts IPERS in writing within 60 days of the first mandatory distribution. IPERS shall inform the member which adjustments or repayments are required in order to make the change.

c. If a member cannot be located to commence payment on or before the required beginning date described above, the member’s benefit shall be forfeited. However, if a member later contacts IPERS and wishes to file an application for retirement benefits, the member’s benefits shall be reinstated.

d. For purposes of determining benefits, the life expectancy of a member, a member’s spouse, or a member’s beneficiary shall not be recalculated after benefits commence.

e. If an IPERS member has a qualified domestic relations order (QDRO) on file when a mandatory distribution is required, and the QDRO requires the member to choose a specific retirement option, IPERS shall pay benefits under the option required by the order.

11.2(5) *Mandatory distribution of small inactive accounts.* As soon as practicable after July 1, 2004, IPERS shall distribute small inactive accounts to members and beneficiaries as authorized in Iowa Code section 97B.48(5).

11.2(6) *Federal tax code limitation for selection of survivor percentages for same gender spouses.* Rescinded IAB 2/19/14, effective 3/26/14.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21; ARC 7811C, IAB 4/17/24, effective 5/22/24]

495—11.3(97B) First month of entitlement (FME).

11.3(1) *General.* A member shall submit a written application to IPERS setting forth the retirement date, provided the member has attained at least age 55 by the retirement date and the retirement date is after the member’s last day of service. A member’s first month of entitlement shall be no earlier than the first day of the first month after the member’s date of termination from employment or, if later, the month provided for under subrule 11.3(2). No payment shall be made for any month prior to the month the completed application for benefits is received by IPERS.

If a member files a retirement application but fails to select a valid first month of entitlement, IPERS will select by default the earliest month possible. A member may appeal this default selection by sending written notice of the appeal postmarked on or before 30 days after a notice of the default selection was mailed to the member. Notice of the default selection is deemed sufficient if sent to the member at the member’s address.

11.3(2) *Additional FME provisions.* Effective January 1, 2001, employees of a school corporation who are permitted by the terms of their employment contracts to receive their annual salaries in monthly installments over periods ranging from 9 to 12 months may retire at the end of a school year and receive trailing wages through the end of the contract year if they have completely fulfilled their contract obligations at the time of retirement. For purposes of this paragraph, “school corporation” means body politic described in Iowa Code sections 260C.16 (community colleges), 273.2 (area education agencies) and 273.1 (K-12 public schools). For purposes of this paragraph, “trailing wages” means previously earned wage payments made to such employees of a school corporation after the first

month of entitlement. This exception does not apply to hourly employees, including those who make arrangements with their employers to hold back hourly wages for payment at a later date, to employees who are placed on sick or disability leave or leave of absence, or to employees who receive lump sum leave, vacation leave, early retirement incentive pay or any other lump sum payments in installments.

For all employees of all IPERS-covered employers who terminate employment in January 2003, or later, if the final paycheck is paid within the same quarter or within one quarter after termination and wages are reported under the normal pay schedule, the first month of entitlement shall be the month following termination. However, if the last paycheck is paid more than one quarter after the termination, the first month of entitlement shall be the first month after the employee is paid the last paycheck. Under no circumstances shall such trailing wages result in more than one quarter of service credit being added to retiring members' earning records.

11.3(3) *Survival into designated FME.* To be eligible for a monthly retirement benefit, the member must survive into the designated first month of entitlement. If the member dies prior to the first month of entitlement, the member's application for monthly benefits is canceled and the distribution of the member's account is made pursuant to Iowa Code section 97B.52. Cancellation of the application shall not invalidate a beneficiary designation. If the application is dated later in time than any other designations, IPERS will accept the designation in a canceled application as binding until a subsequent designation is filed.

11.3(4) *Members retiring under the rule of 88.* The first month of entitlement of a member qualifying under the rule of 88 shall be the first of the month when the member's age as of the last birthday and years of service equal 88. The fact that a member's birthday allowing a member to qualify for the rule of 88 is the same month as the first month of entitlement does not affect the retirement date.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—11.4(97B) Termination of monthly retirement allowance. A member's retirement benefit shall terminate after payment is made to the member for the entire month during which the member's death occurs. Death benefits shall begin with the month following the month in which the member's death occurs.

Upon the death of the retired member, IPERS will reconcile the decedent's account to determine if an overpayment was made to the retired member and if further payment(s) is due to the retired member's named beneficiary, contingent annuitant, heirs at law or estate. If an overpayment has been made to the retired member, IPERS will determine if steps should be taken to seek collection of the overpayment from the named beneficiary, contingent annuitant, estate, heirs at law, or other interested parties.

495—11.5(97B) Bona fide retirement and bona fide refund.

11.5(1) *Bona fide retirement—general.* To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS' bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member's first month of entitlement, entered into verbal or written arrangements with the member's former employer(s) to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the retirement benefit. Such an elected official or legislator may remain in the elective office and receive an IPERS retirement without violating IPERS' bona fide retirement rules. If such elected official or legislator terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a retirement as of the date of hire, the retirement shall not be made. Furthermore, if such elected official or legislator is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the elected official or legislator shall not be eligible for new IPERS coverage for such elected position. The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official or legislator is reelected to the same position without an intervening term out of office.

The bona fide retirement period will be waived if the member has been elected to public office as a part-time elected official or a member of the general assembly and the member's term begins during the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

Effective July 1, 2023, a member will not have a bona fide retirement if the member enters into a verbal or written arrangement to perform duties for the member's former employer(s) as an independent contractor prior to or during the member's first month of entitlement, and the member shall not perform any duties for the member's former employer(s) as an independent contractor prior to receiving one month of retirement benefits.

11.5(2) Bona fide refund. For a member to be eligible for a lump sum refund, the member must terminate the member's covered employment and incur a bona fide separation from service and remain out of employment for at least 30 days with all covered employers. The 30-day bona fide refund period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the refund. Such an official may remain in the elective office and receive an IPERS refund without violating IPERS' bona fide refund rules. If such elected official terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a refund as of the date of hire, the refund shall not be made. Furthermore, if such elected official is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the public official shall not be eligible for new IPERS coverage for such elected position.

The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official is reelected to the same position without an intervening term out of office. The waiver granted in this subrule shall be applicable to such elected officials who were in violation of the prior bona fide refund rules on and after November 1, 2002, when such individuals have not repaid the previously invalid refund.

If a member takes a refund in violation of the bona fide refund requirements of Iowa Code section 97B.53(4), the member may return the refund during the bona fide retirement period and restore the member's account. If the repayment is not made, the member shall receive no credit for the period covered by the refund. At retirement, the member may purchase, at actuarial cost, the service credit covered by the refund.

11.5(3) *Part-time appointed members of boards or commissions receiving minimal noncovered wages.* Solely for purposes of determining whether a member has severed all employment with all covered employers and has remained out of employment as required under Iowa Code section 97B.52A, persons who have been appointed as part-time members of boards or commissions prior to or during their first month of entitlement and who receive only per diem and reimbursements for reasonable business expenses for such positions will be deemed not to be in employment prohibited under Iowa Code section 97B.52A.

For purposes of this subrule, per diem shall not exceed the amount authorized under Iowa Code section 7E.6(1) "a" for members of boards, committees, commissions, and councils within the executive branch of state government. This limit shall apply regardless of whether or not the position in question is within the executive branch of state government.

Members of boards and commissions not exempted under this subrule include: (a) those who are entitled to the payment of per diem regardless of attendance at board or commission meetings, and (b) those who would have received per diem in excess of the amount authorized under Iowa Code section 7E.6(1) "a" were it not for an agreement by the member to waive such compensation.

Persons appointed as part-time board or commission members who receive only per diem as set forth above and reimbursements of reasonable business expenses may continue in or accept appointments to such positions without violating the bona fide retirement rules under Iowa Code section 97B.52A.

11.5(4) *Members of the national guard who are called into state active duty.* Effective May 25, 2008, members of the national guard who are called into state active duty as defined in Iowa Code section 29A.1 in noncovered positions during the required period of complete severance will not be in violation of the bona fide retirement requirements of Iowa Code section 97B.52A.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 4100C, IAB 10/24/18, effective 11/28/18; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 6949C, IAB 3/8/23, effective 4/12/23]

495—11.6(97B) Payment processing and administration.

11.6(1) *Monthly paper warrants processing fee.* Effective July 1, 2005, IPERS shall charge a \$1 per-warrant processing fee to members who choose to receive paper warrants in lieu of electronic deposits of their monthly retirement allowance. The fee may be waived if the person establishes that it would be an undue hardship for the person to do what is necessary to receive payment of the person's IPERS monthly retirement allowance by electronic deposit. The processing fee will be deducted from the member's retirement allowance on a posttax basis.

For purposes of this subrule, a member claiming undue hardship must establish that the cost normally assessed for the processing of paper warrants would be unduly burdensome because of the member's limited income, or is otherwise financially burdensome or physically impracticable.

11.6(2) *Repeated requests for replacement warrants.* Effective July 1, 2002, for a member or beneficiary who, due to the member's or beneficiary's own actions or inactions, has benefits warrants replaced twice in a six-month period, except when the need for a replacement warrant is caused by IPERS' failure to mail to the address specified by the recipient, payment shall be suspended until such time as the recipient establishes a direct deposit account in a bank, credit union or similar financial institution and provides IPERS with the information necessary to make electronic transfer of said monthly payments. Persons subject to said cases may be required to provide a face-to-face interview and additional documentation to prove that such a suspension would result in an undue hardship.

11.6(3) *Forgery claims.* When a forgery of a warrant issued in payment of an IPERS refund or benefit is alleged, the claimant must complete and sign an affidavit before a notary public that the endorsement is a forgery. A supplementary statement must be attached to the affidavit setting forth the details and circumstances of the alleged forgery.

11.6(4) Rollover fees. Effective January 1, 2007, if the recipient of a lump-sum distribution which qualifies to be rolled over requests that a rollover be made to more than one IRA or other qualified plan, IPERS may assess a \$5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax.

11.6(5) Offsets against amounts payable. IPERS may, with or without consent and upon reasonable proof thereof, offset amounts currently payable to a member or the member's designated beneficiaries, heirs, assigns or other successors in interest by the amount of IPERS benefits paid in error to or on behalf of such member or the member's designated beneficiaries, heirs, assigns or other successors in interest.

11.6(6) Lump sum paper warrants processing fee. Effective April 1, 2012, and thereafter, IPERS shall charge \$1 for paper warrants issued in payment of all nonrecurring lump sum distributions. If a nonrecurring lump sum distribution is followed by a supplemental lump sum distribution due to the reporting of additional covered wages, the \$1 processing fee shall also be charged. This \$1 processing fee shall not apply to a direct rollover described under Iowa Code section 97B.53B (however, processing fees may be charged for multiple rollover requests), lump sum mandatory account distributions required under Iowa Code section 97B.48(5), mandatory lump sum distributions required under Internal Revenue Code Section 401(9), or warrants reissued in forged endorsement or other fraudulent payment situations. [ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 7811C, IAB 4/17/24, effective 5/22/24]

495—11.7(97B) Overpayment of IPERS benefits.

11.7(1) Overpayments—general.

a. An “overpayment” means a payment of money by IPERS that results in a recipient receiving a higher payment than the recipient is entitled to under the provisions of Iowa Code chapter 97B.

b. A “recipient” is a person or beneficiary, heir, assign, or other successor in interest who receives an overpayment from an IPERS benefit and is liable to repay the amount(s) upon receipt of a written explanation and request for the amounts to be repaid.

c. If IPERS determines that the cost of recovering the amount of an overpayment is estimated to exceed the overpayment, the repayment may be deemed to be unrecoverable.

d. If the overpayment is equal to or less than \$50 and cannot be recovered from other IPERS payments, IPERS may limit its recovery efforts to written requests for repayment and other nonjudicial remedies.

11.7(2) Overpayment made to a retired member. A retired member shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and a limited opportunity to repay the overpayment in full without interest. If a retired member repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. A retired member may repay an overpayment out of pocket or direct IPERS to recover the overpayment from future retirement benefit payments, or a combination of both. If the retired member cannot repay an overpayment in full, either out of pocket or from the next monthly installment of retirement benefits, or both, interest shall be charged. A retired member who cannot repay the full amount of the overpayment within 30 days after the date of the notice must enter into an agreement with IPERS to make monthly installment payments, or to have the overpayment offset against future monthly benefit payments or death benefits, if any, and authorize any unpaid balance as a first priority claim in the recipient's estate.

11.7(3) Overpayment made to a person other than a retired member. A recipient other than a retired member, except a recipient listed in subrule 11.5(2), shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. If such a recipient repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. If such a recipient cannot repay an overpayment in full within 30 days after the date of the notice, interest shall be charged. If repayment in full cannot be made within 30 days, such a recipient shall make repayment arrangements subject to IPERS' approval within 30 days of the written notice and request for repayment.

If the overpayment recipient cannot be located to receive notice of the overpayment at the recipient's last-known address, IPERS shall, after trying to locate the person, consider the recipient to have waived entitlement to the quarters covered by the refund.

11.7(4) Interest charges.

a. Overpayment not fraudulent. If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.5(2), was not the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 5 percent, or the rate IPERS determines, on the outstanding balance, beginning 30 days after the date of notice of the overpayment(s) is provided by IPERS.

b. Overpayments in violation of Iowa Code section 97B.40 or 715A.8. If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.5(2), was the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 7 percent on the outstanding balance, beginning on the date of the overpayment(s).

c. Overpayments that result in a judgment. In addition to other remedies, IPERS may file a civil action to recover overpayments, and the interest rate may be set by the court.

11.7(5) Recovery of overpayment from a deceased recipient. If a recipient dies prior to the full repayment of an erroneous overpayment of benefits, IPERS shall be entitled to apply to the estate of the deceased to recover the remaining balance.

11.7(6) Offsets against amounts payable. IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code section 421.65.

11.7(7) Rights of appeal. A recipient who is notified of an overpayment and required to make repayments under this rule may appeal IPERS' determination in writing to the CEO or CEO's designee. The written request must explain the basis of the appeal and must be received by IPERS' office within 30 days of overpayment notice pursuant to 495—Chapter 26.

11.7(8) Release of overpayment. IPERS may release a recipient from liability to repay an overpayment, in whole or in part, if IPERS determines that the receipt of overpayment is not the fault of the recipient, and that it would be contrary to equity and good conscience to collect the overpayment. No release of an individual recipient's obligation to repay an overpayment shall stand as precedent for release of another recipient's obligation to repay an overpayment.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 6949C, IAB 3/8/23, effective 4/12/23; ARC 7811C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 97B.4, 97B.9A, 97B.15, 97B.25, 97B.38, 97B.40, 97B.45, 97B.47, 97B.48, 97B.48A, 97B.49A to 97B.49I, 97B.50, 97B.51, 97B.52, 97B.52A, 97B.53, and 97B.53B.

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]

[Filed 12/1/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]

[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

[Filed 11/3/06, Notice 9/27/06—published 11/22/06, effective 12/27/06]

[Filed 5/3/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]

[Filed 8/10/07, Notice 7/4/07—published 8/29/07, effective 10/3/07]

[Filed 3/7/08, Notice 1/2/08—published 3/26/08, effective 4/30/08]

[Filed ARC 8601B (Notice ARC 8477B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]

[Filed Emergency ARC 8929B, IAB 7/14/10, effective 6/21/10]

[Filed ARC 9068B (Notice ARC 8928B, IAB 7/14/10), IAB 9/8/10, effective 10/13/10]

[Filed ARC 0017C (Notice ARC 9951B, IAB 12/28/11), IAB 2/22/12, effective 3/28/12]

[Filed ARC 0662C (Notice ARC 0598C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]

[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]

[Filed ARC 1887C (Notice ARC 1800C, IAB 12/24/14), IAB 2/18/15, effective 3/25/15]

[Filed ARC 2402C (Notice ARC 2331C, IAB 12/23/15), IAB 2/17/16, effective 3/23/16]

[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]

[Filed ARC 3684C (Notice ARC 3537C, IAB 1/3/18), IAB 3/14/18, effective 4/18/18]

[Filed ARC 4100C (Notice ARC 3885C, IAB 7/4/18), IAB 10/24/18, effective 11/28/18]

[Filed ARC 4337C (Notice ARC 4238C, IAB 1/16/19), IAB 3/13/19, effective 4/17/19]

[Filed ARC 5027C (Notice ARC 4925C, IAB 2/12/20), IAB 4/8/20, effective 5/13/20]
[Filed ARC 5489C (Notice ARC 5359C, IAB 12/30/20), IAB 3/10/21, effective 4/14/21]
[Filed ARC 6949C (Notice ARC 6823C, IAB 1/11/23), IAB 3/8/23, effective 4/12/23]
[Filed ARC 7811C (Notice ARC 7648C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

PUBLIC HEALTH DEPARTMENT[641]

Rules of divisions under this department “umbrella” include Professional Licensure[645], Dental Board[650], Medical Board[653],
Nursing Board[655] and Pharmacy Board[657]

CHAPTER 1

REPORTABLE DISEASES, POISONINGS AND CONDITIONS, AND QUARANTINE AND ISOLATION

- | | |
|------------------------------------------------------|--------------------------------------------------------------------------------------|
| 1.1(139A) | Definitions |
| 1.2(139A) | Purpose and authority |
| REPORTABLE COMMUNICABLE AND INFECTIOUS DISEASES | |
| 1.3(139A,141A) | Reportable communicable and infectious diseases |
| 1.4(135,139A) | Reporting of reportable communicable and infectious diseases |
| REPORTABLE POISONINGS AND CONDITIONS—NONCOMMUNICABLE | |
| 1.5(139A,135) | Reportable poisonings and conditions |
| 1.6(135,139A) | Reporting poisonings and conditions |
| INVESTIGATION | |
| 1.7(135,139A) | Investigation of reportable diseases |
| ISOLATION AND QUARANTINE | |
| 1.8(139A) | Isolation and quarantine |
| 1.9(135,139A) | Quarantine and isolation |
| 1.10 and 1.11 | Reserved |
| 1.12(135,137,139A) | Quarantine and isolation—model rule for local boards |
| 1.13(135,139A) | Area quarantine |
| SPECIFIC NONCOMMUNICABLE CONDITIONS | |
| 1.14(139A) | Cancer |
| 1.15(144) | Congenital and inherited disorders |
| 1.16(139A) | Agriculturally related injury |
| CONFIDENTIALITY | |
| 1.17(139A,22) | Confidentiality |
| STATE HYGIENIC LABORATORY | |
| 1.18(135,139A) | Specimens for which the fee charged by the state hygienic laboratory shall be waived |

CHAPTER 2

HEPATITIS PROGRAMS

- | | |
|--------------------------------------------------|-------------------------------------------------|
| VIRAL HEPATITIS PROGRAM—VACCINATIONS AND TESTING | |
| 2.1(135) | Definitions |
| 2.2(135) | Purpose |
| 2.3(135) | Exposure risks for hepatitis C virus |
| 2.4(135) | Information for public distribution |
| 2.5(135) | Hepatitis vaccination and testing program |
| 2.6 to 2.8 | Reserved |
| HEPATITIS C AWARENESS PROGRAM—VETERANS | |
| 2.9(135) | Definitions |
| 2.10(135) | Purpose |
| 2.11(135) | Awareness materials |
| 2.12(135) | Awareness information |
| 2.13(135) | Resources for hepatitis follow-up and treatment |

CHAPTER 3
EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM

- EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM
- 3.1(135) Definitions
 - 3.2(135) Purpose
 - 3.3(135) Goal and outcomes
 - 3.4(135) Program components
 - 3.5(135) Screening the hearing of all newborns
 - 3.6(135) Procedures required of birthing hospitals
 - 3.7(135) Procedures required of birth centers
 - 3.8(135) Procedures to ensure that children born in locations other than a birth center or birthing hospital receive a hearing screening
 - 3.9(135) Reporting hearing screening results and information to the department and child's primary care provider
 - 3.10(135) Conducting and reporting screening results and diagnostic audiologic assessments to the department and child's primary care provider
 - 3.11(135) Congenital cytomegalovirus (cCMV) testing for newborns who do not pass the initial newborn hearing screening
 - 3.12(135) Sharing of information and confidentiality
 - 3.13(135) Procedure to accommodate parental objection
 - 3.14(135) Civil/criminal liability
 - 3.15(135) Early hearing detection and intervention advisory committee
 - 3.16 Reserved

HEARING AIDS AND AUDIOLOGIC SERVICES FUNDING PROGRAM

- 3.17(83GA, HF811) Eligibility criteria
- 3.18(83GA, HF811) Covered services
- 3.19(83GA, HF811) Application procedures
- 3.20(83GA, HF811) Hearing aids and audiologic services funding wait list
- 3.21(83GA, HF811) Reimbursement of providers
- 3.22(83GA, HF811) Appeals

CHAPTER 4
CENTER FOR CONGENITAL AND INHERITED DISORDERS

- 4.1(136A) Program overview
- 4.2(136A) Definitions
- 4.3(136A) Iowa newborn screening program (INSP)
- 4.4(136A) Iowa maternal prenatal screening program (IMPSP)
- 4.5(136A) Regional genetic consultation service (RGCS)
- 4.6(136A) Neuromuscular and other related genetic disease program (NMP)
- 4.7(136A) Iowa registry for congenital and inherited disorders (IRCID)
- 4.8(135) Iowa's early hearing detection and intervention program
- 4.9 and 4.10 Reserved

CENTER FOR CONGENITAL AND INHERITED DISORDERS ADVISORY COMMITTEE (CIDAC)

- 4.11(136A) Purpose
- 4.12(136A) Duties of the advisory committee
- 4.13(136A) Membership
- 4.14(136A) Meetings

CHAPTER 5
MATERNAL DEATHS

- 5.1(135) Reporting of maternal deaths
- 5.2(135) Ascertainment of maternal deaths
- 5.3(135) Reviewing of maternal deaths

CHAPTER 6
Reserved

CHAPTER 7
IMMUNIZATION AND IMMUNIZATION EDUCATION: PERSONS ATTENDING ELEMENTARY
OR SECONDARY SCHOOLS, LICENSED CHILD CARE CENTERS OR INSTITUTIONS OF
HIGHER EDUCATION

- 7.1(139A) Definitions
- 7.2(139A) Persons included
- 7.3(139A) Persons excluded
- 7.4(139A) Required immunizations
- 7.5(139A) Required education
- 7.6(139A) Proof of immunization
- 7.7(139A) Provisional enrollment
- 7.8(139A) Records and reporting
- 7.9(139A) Providing immunization services
- 7.10(139A) Compliance
- 7.11(22) Statewide registry
- 7.12(22) Release of immunization and health screening information

CHAPTER 8
IOWA CARE FOR YOURSELF (IA CFY) PROGRAM

- 8.1(135) Definitions
- 8.2(135) Components of the Iowa care for yourself (IA CFY) program
- 8.3(135) Participant eligibility criteria
- 8.4(135) Participant application procedures for IA CFY program services
- 8.5(135) Priority for program expenditures
- 8.6(135) Right to appeal
- 8.7(135) Verification for the breast or cervical cancer treatment (BCCT) option of Medicaid

CHAPTER 9
OUTPATIENT DIABETES EDUCATION PROGRAMS

- 9.1(135) Scope
- 9.2(135) Definitions
- 9.3(135) Powers and duties
- 9.4(135) Application procedures for American Diabetes Association-recognized and Association of Diabetes Care and Education Specialists/American Association of Diabetes Educators-accredited programs
- 9.5(135) Renewal procedures for American Diabetes Association-recognized and Association of Diabetes Care and Education Specialists/American Association of Diabetes Educators-accredited programs
- 9.6(135) Application procedures for programs not recognized by the American Diabetes Association or accredited by the Association of Diabetes Care and Education Specialists/American Association of Diabetes Educators
- 9.7(135) Diabetes program management for programs not recognized by the American Diabetes Association or accredited by the Association of Diabetes Care and Education Specialists/American Association of Diabetes Educators

- 9.8(135) Program staff for programs not recognized by the American Diabetes Association or accredited by the Association of Diabetes Care and Education Specialists/American Association of Diabetes Educators
- 9.9(135) Renewal application procedures for programs not recognized by the American Diabetes Association or accredited by the Association of Diabetes Care and Education Specialists/American Association of Diabetes Educators
- 9.10(135) Annual report
- 9.11(135) Enforcement
- 9.12(135) Complaints
- 9.13(135) Appeal process
- 9.14(135) Formal contest

CHAPTER 10

IOWA GET SCREENED: COLORECTAL CANCER PROGRAM

- 10.1(135) Purpose
- 10.2(135) Definitions
- 10.3(135) Components of the Iowa get screened (IGS): colorectal cancer program
- 10.4(135) Participant eligibility criteria
- 10.5(135) Participant application procedures for IGS program services
- 10.6(135) Priority for program expenditures
- 10.7(135) Right to appeal
- 10.8(135) Colorectal cancer treatment

CHAPTER 11

HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

- 11.1(139A,141A) Definitions
- 11.2(141A) HIV testing—obtaining consent—voluntary HIV-related tests for adults who are not pregnant
- 11.3(139A,141A) HIV testing—obtaining consent—voluntary HIV-related tests for minors who are not pregnant
- 11.4(141A) HIV testing—obtaining consent—voluntary HIV-related tests for pregnant women
- 11.5(141A) HIV test results—post-test counseling
- 11.6(141A) Reporting of diagnoses and HIV-related tests, events, and conditions to the department
- 11.7(141A) Penalties
- 11.8(141A) Immunity
- 11.9 and 11.10 Reserved

TRAINING PROGRAMS

- 11.11(135) Purpose
- 11.12 to 11.14 Reserved

PARTNER NOTIFICATION SERVICES AND DIRECT NOTIFICATION OF AN IDENTIFIABLE THIRD PARTY

- 11.15(139A,141A) Purpose
- 11.16(139A,141A) Definitions
- 11.17(139A,141A) Partner notification services by the department
- 11.18(141A) Direct notification of an identifiable third party by a physician, physician assistant or the department
- 11.19 and 11.20 Reserved

CARE PROVIDERS EXPOSED TO CONTAGIOUS OR INFECTIOUS DISEASES

- 11.21(139A) Purpose
- 11.22(139A) Definitions

- 11.23(139A,141A) Exposures in non-clinical settings
- 11.24(139A,141A) Exposures in clinical settings
- 11.25(139A) Immunity
- 11.26(139A) Duty to test
- 11.27 to 11.29 Reserved

HIV-RELATED TEST FOR CONVICTED OR ALLEGED SEXUAL-ASSAULT OFFENDERS AND VICTIMS

- 11.30(915) Purpose
- 11.31(915) Definitions
- 11.32(915) HIV-related test—convicted or alleged sexual assault offender
- 11.33(915) Medical examination costs
- 11.34(915) Testing, reporting, and counseling—penalties
- 11.35 to 11.39 Reserved

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

- 11.40(141A) Definitions
- 11.41(141A) Purpose
- 11.42(141A) Ensuring payer of last resort
- 11.43(141A) Eligibility requirements
- 11.44(141A) Enrollment process
- 11.45(141A) Discontinuation of services
- 11.46(141A) Distribution requirements
- 11.47(141A) ADAP waiting list
- 11.48(141A) Appeals
- 11.49(141A) Confidentiality

CHAPTER 12

APPROVAL OF CONFIRMATORY LABORATORIES FOR PRIVATE SECTOR DRUG-FREE WORKPLACE TESTING

- 12.1(730) Purpose
- 12.2(730) Definitions
- 12.3(730) Powers and duties
- 12.4(730) Application procedures and requirements
- 12.5(730) Requirements of laboratory personnel involved in confirmatory testing for alcohol or other drugs, or their metabolites
- 12.6(730) Quality assurance program and procedure manual requirements
- 12.7(730) Analytical quality control
- 12.8(730) Sample security and confidentiality of test results
- 12.9(730) Confirmatory testing
- 12.10(730) Documentation of the confirmatory testing process
- 12.11(730) Reporting of confirmed positive test results to the medical review officer
- 12.12(730) Reporting requirements to department
- 12.13(730) Approval, renewal, and inspection fees
- 12.14(730) Renewal
- 12.15(730) Reciprocity
- 12.16(730) Changes during approval periods
- 12.17(730) Enforcement
- 12.18(730) Denial, suspension, modification or revocation of approval
- 12.19(730) Restoration of approval
- 12.20(730) Appeals process
- 12.21(730) Complaints

CHAPTERS 13 and 14

Reserved

CHAPTER 15
SWIMMING POOLS AND SPAS

15.1(135I)	Applicability
15.2(135I)	Scope
15.3(135I)	Definitions and abbreviations
SWIMMING POOLS	
15.4(135I)	Swimming pool operations
15.5(135I)	Construction and reconstruction
ADMINISTRATION	
15.6(135I)	Enforcement
15.7(135I)	Waivers
15.8(135I)	Penalties
15.9(135I)	Registration
15.10(135I)	Training courses
15.11(135I)	Swimming pool/spa operator qualifications
15.12(135I)	Fees
15.13(135I)	28E agreements
15.14(135I)	Application denial or partial denial—appeal
15.15 to 15.50	Reserved
SPAS	
15.51(135I)	Spa operations
15.52(135I)	Construction and reconstruction

CHAPTERS 16 to 19
Reserved

CHAPTER 20
COMMUNITY WATER FLUORIDATION GRANT PROGRAM

20.1(135)	Purpose
20.2(135)	Definitions
20.3(135)	Applications
20.4(135)	Review and rating of applications
20.5(135)	Project contracts
20.6(135)	Implementation procedures
20.7(135)	Reimbursement
20.8(135)	Termination
20.9(135)	Appeals

CHAPTER 21
CENTRAL REGISTRY FOR
BRAIN AND SPINAL CORD INJURIES

21.1(135)	Purpose
21.2(135)	Definitions
21.3(135)	Reportable brain and spinal cord injuries
21.4(135)	Who reports and under what circumstances
21.5(135)	Method and frequency of reporting
21.6(135)	Confidentiality
21.7(135)	Quality assurance

CHAPTER 22
PRACTICE OF TATTOOING

22.1	Reserved
22.2(10A)	Definitions
22.3(10A)	General provisions
22.4(10A)	Sanitation and infection control
22.5(10A)	Equipment
22.6(10A)	Procedures
22.7(10A)	Permit issuance and renewal
22.8(10A)	Fees
22.9(10A)	Tattoo establishment permit criteria
22.10(10A)	Tattoo artist permit criteria
22.11(10A)	Temporary establishment permit criteria
22.12(10A)	Mobile tattoo unit permit criteria
22.13(10A)	Inspections
22.14(10A)	Tattoo inspector qualifications
22.15(10A)	Enforcement
22.16(10A)	Adverse actions and appeals

CHAPTER 23
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE PRACTICE

23.1(105)	Definitions
23.2(105)	Duties of all licensees, specialty licensees, and certificate holders
23.3(105)	Contractor license
23.4(105)	Master license
23.5(105)	Journeyman license
23.6(105)	Apprentice license
23.7(105)	Specialty licenses and certifications
23.8(105)	Inactive license

CHAPTER 24
PRIVATE WELL TESTING, RECONSTRUCTION, AND
PLUGGING—GRANTS TO COUNTIES

24.1(135)	Applicability
24.2(135)	Definitions
24.3(135)	Eligibility
24.4(135)	Goal and objectives
24.5(135)	Eligible grant costs
24.6(135)	Ineligible grant costs
24.7(135)	Performance requirements
24.8(135)	Contents of grant application
24.9(135)	Grant application submission
24.10(135)	Multicounty grant applications
24.11(135)	Grant period
24.12	Reserved
24.13(135)	Grant amendments
24.14(135)	Termination or forfeiture of grant funds

CHAPTER 25
STATE PLUMBING CODE

25.1(105)	Adoption
25.2(105)	Applicability
25.3(105)	Fuel gas piping

- 25.4(105) Amendments to Uniform Plumbing Code
- 25.5(105) Backflow prevention with containment

CHAPTER 26

BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

- 26.1(135K) Definitions
- 26.2(135K) Registration
- 26.3(135K) Returned checks
- 26.4(135K) Backflow prevention assembly tester training
- 26.5(135K) Registration
- 26.6(135K) Standards of conduct
- 26.7(135K) Penalty
- 26.8(135K) Denial, probation, suspension or revocation

CHAPTER 27

PLUMBING AND MECHANICAL SYSTEMS BOARD—ADMINISTRATIVE AND REGULATORY AUTHORITY

- 27.1(17A,105) Definitions
- 27.2(17A,105) Purpose of board
- 27.3(17A,105) Organization of board and proceedings
- 27.4(17A,105) Official communications
- 27.5(17A,105) Office hours
- 27.6(21) Public meetings

CHAPTER 28

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

- 28.1(105) Fees
- 28.2(105) Annual review of fee schedule
- 28.3(105) Waiver of fees

CHAPTER 29

PLUMBING AND MECHANICAL SYSTEMS BOARD—APPLICATION, LICENSURE, AND EXAMINATION

- 29.1(105) Definitions
- 29.2(105) Available licenses and general requirements
- 29.3(105) Medical gas piping certification
- 29.4(105) Minimum qualifications for licensure
- 29.5(105) General requirements for application for licensure
- 29.6(105) Examination
- 29.7(105) License renewal
- 29.8(105) License reissue
- 29.9(105) Waiver from examination for military service
- 29.10(105) Reactivation of an inactive license
- 29.11(105) Review of applications
- 29.12(105) Grounds for denial of an application
- 29.13(105) Use of criminal convictions in eligibility determinations and initial licensing decisions

CHAPTER 30

CONTINUING EDUCATION FOR PLUMBING AND MECHANICAL SYSTEMS PROFESSIONALS

- 30.1(105) Definitions
- 30.2(105) Continuing education requirements

30.3(105)	Continuing education programs/activities
30.4(105)	Course instructor(s)
30.5(105)	Compliance review of continuing education requirements
30.6(105)	Continuing education exemptions
30.7(105)	Continuing education extensions
30.8(105)	Continuing education reporting requirements

CHAPTER 31

PLUMBING AND MECHANICAL SYSTEMS BOARD—WAIVERS FROM ADMINISTRATIVE RULES

31.1(17A,105,272C)	Definitions
31.2(17A,105,272C)	Scope of chapter
31.3(17A,105,272C)	Applicability of chapter
31.4(17A,105,272C)	Criteria for waiver
31.5(17A,105,272C)	Filing of petition
31.6(17A,105,272C)	Content of petition
31.7(17A,105,272C)	Additional information
31.8(17A,105,272C)	Notice
31.9(17A,105,272C)	Hearing procedures
31.10(17A,105,272C)	Ruling
31.11(17A,105,272C)	Public availability
31.12(17A,105,272C)	Reports to administrative code editor and administrative rules coordinator
31.13(17A,105,272C)	Cancellation of a waiver
31.14(17A,105,272C)	Violations
31.15(17A,105,272C)	Defense
31.16(17A,105,272C)	Judicial review

CHAPTER 32

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE DISCIPLINE

32.1(105,272C)	Definitions
32.2(105,272C)	Grounds for discipline
32.3(105,272C)	Method of discipline
32.4(272C)	Discretion of board
32.5(105)	Civil penalties
32.6(105,272C)	Collection of delinquent civil penalties and discipline-related debts

CHAPTER 33

PLUMBING AND MECHANICAL SYSTEMS BOARD—CONTESTED CASES

33.1(17A,105,272C)	Scope and applicability
33.2(17A,105,272C)	Definitions
33.3(17A)	Time requirements
33.4(17A,272C)	Probable cause
33.5(17A,272C)	Informal settlement
33.6(17A)	Statement of charges
33.7(17A)	Requests for contested case proceeding
33.8(105)	Legal representation
33.9(17A,105,272C)	Presiding officer in a disciplinary contested case
33.10(17A)	Presiding officer in a nondisciplinary contested case
33.11(17A)	Disqualification
33.12(17A)	Consolidation—severance
33.13(17A)	Pleadings
33.14(17A)	Service and filing
33.15(17A)	Discovery

33.16(17A,272C)	Subpoenas in a contested case
33.17(17A)	Motions
33.18(17A)	Withdrawals
33.19(17A)	Intervention
33.20(17A)	Telephone proceedings
33.21(17A)	Prehearing conferences
33.22(17A)	Continuances
33.23(272C)	Settlement agreements
33.24(17A)	Hearing procedures
33.25(17A)	Evidence
33.26(17A)	Default
33.27(17A)	Ex parte communication
33.28(17A)	Recording costs
33.29(17A)	Interlocutory appeals
33.30(17A,272C)	Decisions
33.31(17A,272C)	Client notification
33.32(17A,272C)	Application for rehearing
33.33(17A)	Stays of board actions
33.34(17A)	No factual dispute contested cases
33.35(17A)	Emergency adjudicative proceedings
33.36(17A,105,272C)	License denial
33.37(17A,105,272C)	Denial of application to renew license
33.38(105,272C)	Recovery of hearing fees and expenses
33.39(17A)	Judicial review
33.40(17A,272C)	Reinstatement

CHAPTER 34

PLUMBING AND MECHANICAL SYSTEMS BOARD—COMPLAINTS AND INVESTIGATIONS

34.1(272C)	Complaints
34.2(272C)	Report of malpractice claims or actions or disciplinary actions
34.3(272C)	Report of acts or omissions
34.4(272C)	Investigation of complaints or reports
34.5(17A,272C)	Issuance of investigatory subpoenas
34.6(272C)	Peer review committees
34.7(17A)	Appearance

CHAPTER 35

PLUMBING AND MECHANICAL SYSTEMS BOARD—ALTERNATIVE LICENSURE PATHWAYS

35.1(105)	Definitions
35.2(105)	Reciprocity agreements
35.3(105)	Licensure by reciprocity
35.4(105)	Licensure by verification
35.5(105)	Licensure by work experience in jurisdictions without licensure requirements

CHAPTER 36

PLUMBING AND MECHANICAL SYSTEMS BOARD— PETITIONS FOR RULE MAKING

36.1(17A)	Petition for rule making
36.2(17A)	Briefs
36.3(17A)	Inquiries
36.4(17A)	Board consideration

CHAPTER 37
PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL

GENERAL PROVISIONS

37.1(136C)	Purpose and scope
37.2 to 37.4	Reserved
37.5(136C)	Definitions
37.6	Reserved
37.7(136C)	Communications
37.8 to 37.10	Reserved
37.11(136C)	Specific exemptions
37.12 to 37.20	Reserved
	BACKGROUND INVESTIGATIONS AND ACCESS CONTROL PROGRAM
37.21(136C)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material
37.22	Reserved
37.23(136C)	Access authorization program requirements
37.24	Reserved
37.25(136C)	Background investigations
37.26	Reserved
37.27(136C)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material
37.28	Reserved
37.29(136C)	Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials
37.30	Reserved
37.31(136C)	Protection of information
37.32	Reserved
37.33(136C)	Access authorization program review
37.34 to 37.40	Reserved

PHYSICAL PROTECTION REQUIREMENTS DURING USE

37.41(136C)	Security program
37.42	Reserved
37.43(136C)	General security program requirements
37.44	Reserved
37.45(136C)	LLEA coordination
37.46	Reserved
37.47(136C)	Security zones
37.48	Reserved
37.49(136C)	Monitoring, detection, and assessment
37.50	Reserved
37.51(136C)	Maintenance and testing
37.52	Reserved
37.53(136C)	Requirements for mobile devices
37.54	Reserved
37.55(136C)	Security program review
37.56	Reserved
37.57(136C)	Reporting of events
37.58 to 37.70	Reserved

PHYSICAL PROTECTION IN TRANSIT

- 37.71(136C) Additional requirements for transfer of category 1 and category 2 quantities of radioactive material
- 37.72 Reserved
- 37.73(136C) Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit
- 37.74 Reserved
- 37.75(136C) Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material
- 37.76 Reserved
- 37.77(136C) Advance notification of shipment of category 1 quantities of radioactive material
- 37.78 Reserved
- 37.79(136C) Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment
- 37.80 Reserved
- 37.81(136C) Reporting of events
- 37.82 to 37.100 Reserved

RECORDS

- 37.101(136C) Form of records
- 37.102 Reserved
- 37.103(136C) Record retention
- 37.104 Reserved
- 37.105(136C) Inspections

CHAPTER 38

GENERAL PROVISIONS FOR RADIATION MACHINES
AND RADIOACTIVE MATERIALS

- 38.1(136C) Purpose and scope
- 38.2(136C) Definitions
- 38.3(136C) Exemptions from the regulatory requirements
- 38.4(136C) General regulatory requirements
- 38.5 Reserved
- 38.6(136C) Prohibited uses
- 38.7(136C) Communications
- 38.8(136C) Fees
- 38.9(136C) Administrative enforcement actions
- 38.10(136C) Deliberate misconduct

CHAPTER 39

REGISTRATION OF RADIATION MACHINE FACILITIES, LICENSURE OF RADIOACTIVE
MATERIALS AND TRANSPORTATION OF RADIOACTIVE MATERIALS

- 39.1(136C) Purpose and scope
- 39.2(136C) Definitions
- 39.3(136C) Requirements for registration of X-ray and other electronic machines that produce radiation
- 39.4(136C) Requirements for licensing of radioactive materials
- 39.5(136C) Transportation of radioactive material

CHAPTER 40
STANDARDS FOR PROTECTION AGAINST RADIATION

GENERAL PROVISIONS

40.1(136C)	Purpose and scope
40.2(136C)	Definitions
40.3(136C)	Implementation
40.4 to 40.9	Reserved

RADIATION PROTECTION PROGRAMS

40.10(136C)	Radiation protection programs
40.11 to 40.14	Reserved

OCCUPATIONAL DOSE LIMITS

40.15(136C)	Occupational dose limits for adults
40.16(136C)	Compliance with requirements for summation of external and internal doses
40.17(136C)	Determination of external dose from airborne radioactive material
40.18(136C)	Determination of internal exposure
40.19(136C)	Determination of prior occupational dose
40.20(136C)	Planned special exposures
40.21(136C)	Occupational dose limits for minors
40.22(136C)	Dose equivalent to an embryo/fetus
40.23 to 40.25	Reserved

RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

40.26(136C)	Dose limits for individual members of the public
40.27(136C)	Compliance with dose limits for individual members of the public

RADIOLOGICAL CRITERIA FOR LICENSE TERMINATION

40.28(136C)	Radiological criteria for license termination
40.29(136C)	Radiological criteria for unrestricted use
40.30(136C)	Criteria for license termination under restricted conditions
40.31(136C)	Alternate criteria for license termination

TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

40.32(136C)	Testing for leakage or contamination of sealed sources
40.33 to 40.35	Reserved

SURVEYS AND MONITORING

40.36(136C)	Surveys and monitoring—general
40.37(136C)	Conditions requiring individual monitoring of external and internal occupational dose
40.38 to 40.41	Reserved

CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

40.42(136C)	Control of access to high radiation areas
40.43(136C)	Control of access to very high radiation areas
40.44(136C)	Control of access to very high radiation areas—irradiators
40.45 to 40.47	Reserved

RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT
INTERNAL EXPOSURE IN RESTRICTED AREAS

40.48(136C)	Use of process or other engineering controls
40.49(136C)	Use of other controls
40.50(136C)	Use of individual respiratory protection equipment
40.51 to 40.53	Reserved

STORAGE AND CONTROL OF LICENSED OR REGISTERED
SOURCES OF RADIATION

- 40.54 Reserved
 40.55(136C) Security and control of licensed or registered sources of radiation
 40.56 to 40.59 Reserved

PRECAUTIONARY PROCEDURES

- 40.60(136C) Caution signs
 40.61(136C) Posting requirements
 40.62(136C) Exceptions to posting requirements
 40.63(136C) Labeling containers and radiation machines
 40.64(136C) Exemptions to labeling requirements
 40.65(136C) Procedures for receiving and opening packages
 40.66 to 40.69 Reserved

WASTE DISPOSAL

- 40.70(136C) General requirements
 40.71(136C) Method for obtaining approval of proposed disposal procedures
 40.72(136C) Disposal by release into sanitary sewerage
 40.73(136C) Treatment or disposal by incineration
 40.74(136C) Disposal of specific wastes
 40.75(136C) Transfer for disposal and manifests
 40.76(136C) Compliance with environmental and health protection regulations
 40.77(136C) Disposal of certain byproduct material
 40.78 and 40.79 Reserved

RECORDS

- 40.80(136C) General provisions
 40.81(136C) Records of radiation protection programs
 40.82(136C) Records of surveys
 40.83(136C) Records of tests for leakage or contamination of sealed sources
 40.84(136C) Records of prior occupational dose
 40.85(136C) Records of planned special exposures
 40.86(136C) Records of individual monitoring results
 40.87(136C) Records of dose to individual members of the public
 40.88(136C) Records of waste disposal
 40.89(136C) Records of testing entry control devices for very high radiation areas
 40.90(136C) Form of records
 40.91 to 40.94 Reserved

REPORTS

- 40.95(136C) Reports of stolen, lost, or missing licensed or registered sources of radiation
 40.96(136C) Notification of incidents
 40.97(136C) Reports of exposures, radiation levels, and concentrations of radioactive material
 exceeding the constraints or limits
 40.98(136C) Reports of planned special exposures
 40.99(136C) Reports of transactions involving nationally tracked sources
 40.100(136C) Reports of individual monitoring
 40.101(136C) Notifications and reports to individuals
 40.102(136C) Reports of leaking or contaminated sealed sources
 40.103 and 40.104 Reserved

ADDITIONAL REQUIREMENTS

- 40.105(136C) Vacating premises
 40.106 to 40.109 Reserved

NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

- 40.110(136C) Posting of notices to workers
- 40.111(136C) Instructions to workers
- 40.112(136C) Notifications and reports to individuals
- 40.113(136C) Presence of representatives of licensees or registrants and workers during inspection
- 40.114(136C) Consultation with workers during inspections
- 40.115(136C) Requests by workers for inspections
- 40.116(136C) Inspections not warranted—informal review
- 40.117(136C) Employee protection

CHAPTER 41

SAFETY REQUIREMENTS FOR THE USE OF
RADIATION MACHINES AND CERTAIN USES
OF RADIOACTIVE MATERIALS

- 41.1(136C) X-rays in the healing arts
- 41.2(136C) Use of radionuclides in the healing arts
- 41.3(136C) Therapeutic use of radiation machines
- 41.4 and 41.5 Reserved
- 41.6(136C) X-ray machines used for screening and diagnostic mammography
- 41.7(136C) X-ray machines used for stereotactically guided breast biopsy

CHAPTER 42

PERMIT TO OPERATE IONIZING RADIATION PRODUCING MACHINES
OR ADMINISTER RADIOACTIVE MATERIALS

- 42.1(136C) Purpose
 - 42.2(136C) Definitions
 - 42.3(136C) Exemptions
- PERMIT APPLICATION AND RENEWAL
- 42.4(136C) Permit application and renewal
 - 42.5(136C) Permit to practice as a general radiologic technologist
 - 42.6(136C) Permit to practice as a general nuclear medicine technologist
 - 42.7(136C) Permit to practice as a radiation therapist
 - 42.8(136C) Permit to practice as a radiologist assistant
 - 42.9(136C) Permit to practice as a limited radiologic technologist with categories of chest, spine, extremities, shoulder, pediatric
 - 42.10(136C) Permit to practice as an X-ray equipment operator in either podiatric radiography or bone densitometry (dual energy X-ray absorptiometry)
 - 42.11 Reserved
 - 42.12(136C) Closed classification or category permits
 - 42.13(136C) Combining permits for an individual qualifying for permits in more than one classification
 - 42.14 to 42.17 Reserved
- PERMIT HOLDER SUBMISSION OF CONTINUING EDUCATION
- 42.18(136C) Submission of proof of completion of continuing education by permit holder to meet continuing education requirements to renew or reinstate a permit
 - 42.19 and 42.20 Reserved

ADMINISTRATIVE ITEMS AND GROUNDS FOR DISCIPLINARY ACTION

- 42.21(136C) Administrative items
- 42.22(136C) Rules of conduct, self-reporting requirements, and enforcement actions for all permit holders or applicants

42.23(136C) Procedures for demand for information, notice of proposed action, and orders for penalties, suspensions, revocations, and civil penalties for all individuals under this chapter

42.24 to 42.29 Reserved

FORMAL EDUCATION

42.30(136C) Requirements for formal education

42.31(136C) Standards for formal education for limited radiologic technologists

42.32(136C) Standards for formal education for X-ray equipment operators in podiatric radiography

42.33(136C) Standards for formal education for X-ray equipment operators in bone densitometry

CHAPTER 43

MINIMUM REQUIREMENTS FOR RADON TESTING AND ANALYSIS

43.1(136B) Purpose and scope

43.2(136B) Definitions

43.3(136B) General provisions

43.4(136B) Application for certification

43.5(136B) Enforcement actions

43.6(136B) Reporting requirements

43.7(136B) Training and continuing education programs

43.8(136B,280) School district employee measurement training

43.9(136B) Exemptions

43.10(136B) Enforcement

43.11(136B) Penalties

43.12(136B) Persons exempted from certification

CHAPTER 44

MINIMUM REQUIREMENTS FOR RADON MITIGATION

44.1(136B) Purpose and scope

44.2(136B) Definitions

44.3(136B) General provisions

44.4(136B) Application for credentialing

44.5(136B) Revocation of credentialing

44.6(136B) Additional record-keeping requirements

44.7(136B) Continuing education

44.8(136B) Exemptions

44.9(136B) Enforcement

44.10(136B) Penalties

CHAPTER 45

RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS, PARTICLE ACCELERATORS FOR NONHUMAN USE, ANALYTICAL X-RAY EQUIPMENT, AND WELL-LOGGING

45.1(136C) General requirements for industrial radiography operations

45.2(136C) Radiation safety requirements for the use of radiation machines in industrial radiography

45.3(136C) Radiation safety requirements for use of sealed sources of radiation in industrial radiography

45.4(136C) Radiation safety requirements for the use of particle accelerators for nonhuman use

45.5(136C) Radiation safety requirements for analytical X-ray equipment

45.6(136C) Radiation safety requirements for well-logging, wireline service operations and subsurface tracer studies

CHAPTER 46
MINIMUM REQUIREMENTS FOR TANNING FACILITIES

46.1(136D)	Purpose and scope
46.2(136D)	Definitions
46.3(136D)	Exemptions
46.4(136D)	Permits and fees
46.5(136D)	Construction and operation of tanning facilities
46.6(136D)	Inspections, violations and injunctions

CHAPTERS 47 to 49
Reserved

CHAPTER 50
ORAL HEALTH

50.1(135)	Purpose
50.2(135)	Definitions
50.3(135)	Dental director responsibilities
50.4(135)	Oral health bureau functions
50.5(135)	Funding

CHAPTER 51
DENTAL SCREENING

51.1(135)	Purpose
51.2(135)	Definitions
51.3(135)	Persons included
51.4(135)	Persons excluded
51.5(135)	Dental screening components
51.6(135)	Dental screening providers
51.7(135)	Time line for valid dental screening
51.8(135)	Proof of dental screening
51.9(135)	Dental screening documentation
51.10(135)	Assuring dental screening services
51.11(135)	Records
51.12(135)	Reporting
51.13(135)	Iowa's dental screening database
51.14(135)	Release of dental screening information
51.15(135)	Referral requirements
51.16(135)	Provider training

CHAPTER 52
VISION SCREENING

52.1(135)	Purpose
52.2(135)	Definitions
52.3(135)	Persons included and persons excluded
52.4(135)	Child vision screening components
52.5(135)	Time line for valid vision screening
52.6(135)	Proof of child vision screening
52.7(135)	Child vision screening reporting
52.8(135)	School requirements
52.9(135)	Iowa's child vision screening database module and follow-up
52.10(135)	Referral requirements

CHAPTER 53

Reserved

CHAPTER 54

CONCUSSION OR OTHER BRAIN INJURY RETURN-TO-PLAY PROTOCOL

- 54.1(280) Purpose
- 54.2(280) Definitions
- 54.3(280) Return-to-play protocol

CHAPTER 55

ADVISORY COUNCIL ON BRAIN INJURIES

- 55.1(135) Definitions
- 55.2(135) Mission of council
- 55.3(135) Council established
- 55.4(135) Officers
- 55.5(135) Duties of the council
- 55.6(135) Meetings
- 55.7(135) Minutes
- 55.8(135) Task forces
- 55.9(135) Expenses of advisory council members

CHAPTER 56

BRAIN INJURY SERVICES PROGRAM

- 56.1(135) Definitions
- 56.2(135) Purpose
- 56.3(135) Waiver-eligible component
- 56.4(135) Cost-share component
- 56.5(135) Application process
- 56.6(135) Service providers and reimbursement
- 56.7(135) Available services/service plan
- 56.8(135) Redetermination
- 56.9(135) Appeal rights

CHAPTER 57

PLUMBING AND MECHANICAL SYSTEMS BOARD—
DECLARATORY ORDERS

- 57.1(17A) Petition for declaratory order
- 57.2(17A) Notice of petition
- 57.3(17A) Intervention
- 57.4(17A) Briefs
- 57.5(17A) Inquiries
- 57.6(17A) Service and filing of petitions and other papers
- 57.7(17A) Consideration
- 57.8(17A) Action on petition
- 57.9(17A) Refusal to issue order
- 57.10(17A) Contents of declaratory order—effective date
- 57.11(17A) Copies of orders
- 57.12(17A) Effect of a declaratory order
- 57.13(17A) Petition for eligibility determination

CHAPTER 58
PLUMBING AND MECHANICAL SYSTEMS BOARD—
AGENCY PROCEDURE FOR RULE MAKING

58.1(17A)	Applicability
58.2(17A)	Advice on possible rules before notice of proposed rule adoption
58.3(17A)	Public rule-making docket
58.4(17A)	Notice of proposed rule making
58.5(17A)	Public participation
58.6(17A)	Regulatory analysis
58.7(17A)	Fiscal impact statement
58.8(17A)	Time and manner of rule adoption
58.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
58.10(17A)	Exemptions from public rule-making procedures
58.11(17A)	Concise statement of reasons
58.12(17A)	Contents, style, and form of rule
58.13(17A)	Agency rule-making record
58.14(17A)	Filing of rules
58.15(17A)	Effectiveness of rules prior to publication
58.16(17A)	General statements of policy
58.17(17A)	Review by agency of rules

CHAPTER 59
PLUMBING AND MECHANICAL SYSTEMS BOARD—FAIR INFORMATION
PRACTICES AND PUBLIC RECORDS

59.1(17A,22)	Definitions
59.2(17A,22)	Statement of policy
59.3(17A,22)	Requests for access to records
59.4(17A,22)	Access to confidential records
59.5(17A,22)	Requests for treatment of a record as a confidential record and its withholding from examination
59.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
59.7(17A,22)	Consent to disclosure by the subject of a confidential record
59.8(17A,22)	Notice to suppliers of information
59.9(17A,22)	Disclosures without the consent of the subject
59.10(17A,22)	Routine use
59.11(17A,22)	Consensual disclosure of confidential records
59.12(17A,22)	Release to subject
59.13(17A,22)	Availability of records
59.14(17A,22)	Personally identifiable information
59.15(17A,22)	Other groups of records routinely available for public inspection
59.16(17A,22)	Applicability

CHAPTER 60
PLUMBING AND MECHANICAL SYSTEMS BOARD—
NONCOMPLIANCE REGARDING CHILD SUPPORT, NONPAYMENT OF STATE DEBT,
AND NONCOMPLIANCE REGARDING STUDENT LOAN REPAYMENT

60.1(252J)	Child support noncompliance
60.2(272D)	Nonpayment of state debt
60.3(272C)	Student loan repayment noncompliance

CHAPTER 61
STATE MECHANICAL CODE

61.1(105)	Definitions
61.2(105)	Adoption by reference
61.3(105)	Amendments to International Mechanical Code
61.4(105)	Hospitals and health care facilities
61.5(105)	Enforcement

CHAPTER 62
PLUMBING AND MECHANICAL SYSTEMS BOARD—
MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE
MEMBERS

62.1(272C)	Military service, veteran reciprocity, and spouses of active duty service members
62.2(272C)	Spouses of military members

CHAPTERS 63 to 66
Reserved

CHAPTER 67
BLOOD LEAD TESTING

67.1(135)	Purpose
67.2(135)	Definitions
67.3(135)	Persons included
67.4(135)	Persons excluded
67.5(135)	Blood lead testing requirement
67.6(135)	Time line for valid blood lead testing
67.7(135)	Proof of blood lead testing
67.8(135)	Referral requirements
67.9(135)	Blood lead testing documentation
67.10(135)	Records
67.11(135)	Provider training

CHAPTER 68
CONTROL OF LEAD-BASED PAINT HAZARDS

68.1(135)	Applicability
68.2(135)	Definitions
68.3(135)	Elevated blood lead (EBL) inspections required
68.4(135)	Refusal of admittance
68.5(135)	Lead hazard reduction required
68.6(135)	Retaliation prohibited
68.7(135)	Enforcement
68.8(135)	Hearings
68.9(135)	Variances
68.10(135)	Injunction
68.11(135)	Effective date

CHAPTER 69
RENOVATION, REMODELING, AND REPAINTING—
LEAD HAZARD NOTIFICATION PROCESS

69.1(135)	Applicability
69.2(135)	Definitions
69.3(135)	Notification required in target housing
69.4(135)	Notification required in multifamily housing

69.5(135)	Emergency renovation, remodeling, or repainting in target housing
69.6(135)	Certification of attempted delivery in target housing
69.7(135)	Notification required in child-occupied facilities
69.8(135)	Emergency renovation, remodeling, or repainting in child-occupied facilities
69.9(135)	Certification of attempted delivery for child-occupied facilities
69.10(135)	Subcontracts
69.11(135)	Exemption
69.12(135)	Record-keeping requirements
69.13(135)	Compliance inspections
69.14(135)	Enforcement
69.15(135)	Waivers

CHAPTER 70

LEAD-BASED PAINT ACTIVITIES

70.1(135)	Applicability
70.2(135)	Definitions
70.3(135)	Lead professional certification
70.4(135)	Course approval and standards
70.5(135)	Certification, interim certification, and recertification
70.6(135)	Work practice standards for lead professionals conducting lead-based paint activities in target housing and child-occupied facilities
70.7(135)	Firms
70.8	Reserved
70.9(135)	Compliance inspections
70.10(135)	Denial, suspension, or revocation of certification; denial, suspension, revocation, or modification of course approval; and imposition of penalties
70.11(135)	Waivers

CHAPTER 71

EMERGENCY INFORMATION SYSTEM ON PESTICIDES FOR USE BY HEALTH CARE PROVIDERS DURING MEDICAL EMERGENCIES

71.1(139A)	Scope
71.2(139A)	Definitions
71.3(139A)	Operation of EIS

CHAPTER 72

CHILDHOOD LEAD POISONING PREVENTION PROGRAM

72.1(135)	Definitions
72.2(135)	Approved programs
72.3(135)	Reallocation of funding
72.4(135)	Appeals

CHAPTER 73

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

73.1(135)	Program explanation
73.2(135)	Adoption by reference
73.3(135)	Availability of rules and policy and procedure manual
73.4(135)	Definitions
73.5(135)	Staffing of contract agencies
73.6(135)	Certification of participants
73.7(135)	Food delivery

73.8(135)	Food package
73.9(135)	Education
73.10(135)	Health services
73.11(135)	Appeals and fair hearings—local agencies
73.12(135)	Right to appeal—participant
73.13(135)	Right to appeal—vendor
73.14(135)	State monitoring of contract agencies
73.15(135)	Migrant services
73.16(135)	Civil rights
73.17(135)	Audits
73.18(135)	Reporting
73.19(135)	WIC program violation
73.20(135)	Data processing
73.21(135)	Outreach
73.22(135)	Caseload management
73.23(135)	Grant application procedures for contract agencies
73.24(135)	Participant rights
73.25(135)	Confidentiality
73.26(135)	WIC online ordering project

CHAPTER 74

FAMILY PLANNING SERVICES

74.1(135)	Program explanation
74.2(135)	Adoption by reference
74.3(135)	Rule coverage
74.4(135)	Definitions
74.5(135)	Grant application procedures for contract agencies
74.6(135)	Funding levels for contract agencies
74.7(135)	Agency performance
74.8(135)	Reporting
74.9(135)	Fiscal management
74.10(135)	Audits
74.11(135)	Denial, suspension, revocation, or reduction of contracts with contract agencies
74.12(135)	Right to appeal—contract agency

CHAPTER 75

FAMILY PLANNING SERVICES FUNDING PRIORITIZATION, RESTRICTIONS AND REPORTING

75.1(88GA,ch85)	Program explanation
75.2(88GA,ch85)	Definitions
75.3(88GA,ch85)	Distribution of grant funds
75.4(88GA,ch85)	Indirect funds restrictions—abortion
75.5(88GA,ch85)	Report requirement

CHAPTER 76

MATERNAL AND CHILD HEALTH PROGRAM

76.1(135)	Program overview
76.2(135)	Adoption by reference
76.3(135)	Rule coverage
76.4(135)	Definitions
76.5(135)	MCH services
76.6(135)	Client eligibility criteria
76.7(135)	Client application procedures for MCH services

76.8(135)	Right to appeal—client
76.9(135)	Grant application procedures for community-based contract agencies
76.10(135)	Funding levels for community-based contract agencies
76.11(135)	Contract agency performance
76.12(135)	Reporting
76.13(135)	Fiscal management
76.14(135)	Audits
76.15	Reserved
76.16(135)	Denial, suspension, revocation or reduction of contracts with contract agencies
76.17(135)	Right to appeal—contract agency
76.18 to 76.20	Reserved

MATERNAL AND CHILD HEALTH ADVISORY COUNCIL

76.21(135)	Purpose
76.22(135)	Mission
76.23(135)	Membership
76.24(135)	Officers
76.25(135)	Duties of the council
76.26(135)	Meetings
76.27(135)	Executive committee
76.28(135)	Committees

CHAPTER 77

LOCAL BOARDS OF HEALTH

77.1(137)	Purpose
77.2(137)	Definitions
77.3(137)	Local boards of health—roles and responsibilities
77.4(137)	Organization of local boards of health
77.5(137)	Operation of local boards of health
77.6(137)	Expenses of local board of health members
77.7(137)	Dissolution of city boards
77.8(137)	Request to form district board of health
77.9(137)	Review, approval or denial of district board of health formation
77.10(137)	Adding to a district board of health
77.11(137)	Withdrawal from a district board of health

CHAPTER 78

PERSONAL RESPONSIBILITY EDUCATION PROGRAM AND TITLE V STATE SEXUAL RISK AVOIDANCE EDUCATION GRANT PROGRAM FUNDING AND RESTRICTIONS

78.1(88GA,HF766)	Purpose
78.2(88GA,HF766)	Definitions
78.3(88GA,HF766)	Distribution of grant funds

CHAPTER 79

Reserved

CHAPTER 80

LOCAL PUBLIC HEALTH SERVICES

80.1(135)	Purpose
80.2(135)	Definitions
80.3(135)	Contractor assurances
80.4(135)	Utilization of LPHS contract funding
80.5(135)	LPHS funds

CHAPTER 81

GENERAL RULES FOR MIGRATORY LABOR CAMPS

- 81.1(138) Shelters
- 81.2(138) Water supply
- 81.3(138) Waste disposal
- 81.4(138) Bathing facilities
- 81.5(138) Central dining facilities
- 81.6(138) Safety and fire

CHAPTERS 82 to 85

Reserved

CHAPTER 86

PLACES WHERE DEAD HUMAN BODIES ARE PREPARED
FOR BURIAL OR ENTOMBMENT

- 86.1(156) Purpose
- 86.2(156) Definitions
- 86.3(156) Licensing
- 86.4(156) Public access areas
- 86.5(156) Preparation room
- 86.6(156) Crematorium chambers
- 86.7(156) Inspection fees

CHAPTER 87

HEALTHY FAMILIES IOWA (HFI)

- 87.1(135) Purpose
- 87.2(135) Definitions
- 87.3(135) Applicant eligibility
- 87.4(135) Participant eligibility
- 87.5(135) Program requirements
- 87.6(135) Contractor assurance
- 87.7(135) Applicant appeal process
- 87.8(135) Participant right to appeal

CHAPTER 88

VOLUNTEER HEALTH CARE PROVIDER PROGRAM

- 88.1(135) Purpose
- 88.2(135) Definitions
- 88.3(135) Eligibility for the volunteer health care provider program
- 88.4(135) Sponsor entity and protected clinic
- 88.5(135) Covered health care services
- 88.6(135) Defense and indemnification
- 88.7(135) Term of agreement
- 88.8(135) Reporting requirements and duties
- 88.9(135) Revocation of agreement
- 88.10(135) Procedure for revocation of agreement
- 88.11(135) Effect of suspension or revocation
- 88.12(135) Protection denied
- 88.13(135) Board notice of disciplinary action
- 88.14(135) Effect of eligibility protection
- 88.15(135) Reporting by a protected clinic or sponsor entity

CHAPTER 89
 DECISION-MAKING ASSISTANCE PROGRAM
 AND PARENTAL NOTIFICATION OF INTENT
 TO TERMINATE A PREGNANCY THROUGH ABORTION

89.1(135L)
 89.2(135L)
 89.3(135L)
 89.4 to 89.10

Title
 Purpose and scope
 Definitions
 Reserved

DECISION-MAKING ASSISTANCE PROGRAM

89.11(135L)
 89.12(135L)
 89.13 to 89.20

Purpose
 Initial appointment of a pregnant minor with a licensed physician from whom an abortion is sought and certification procedure for the decision-making assistance program
 Reserved

NOTIFICATION PROCESS

89.21(135L)
 89.22(135L)
 89.23(135L)
 89.24 and 89.25
 89.26(135L)

Notification of parent prior to the performance of abortion on a pregnant minor
 Exceptions to notification of parent
 Physician compliance
 Reserved
 Fraudulent practice

CHAPTER 90
 IOWA CHILD DEATH REVIEW TEAM

90.1(135)
 90.2(135)
 90.3(135)
 90.4(135)
 90.5(135)
 90.6(135)
 90.7
 90.8(135)
 90.9(135)
 90.10(135)
 90.11(135)

Purpose
 Definitions
 Agency
 Membership
 Officers
 Meetings
 Reserved
 Team responsibilities
 Liaisons
 Confidentiality and disclosure of information
 Immunity and liability

CHAPTER 91
 IOWA DOMESTIC ABUSE DEATH REVIEW TEAM

91.1(135)
 91.2(135)
 91.3(135)
 91.4(135)
 91.5(135)
 91.6(135)
 91.7(135)
 91.8(135)
 91.9(135)
 91.10(135)
 91.11(135)

Purpose
 Definitions
 Agency
 Membership
 Officers
 Meetings
 Expenses of team members
 Team duties and responsibilities
 Liaisons
 Confidentiality and disclosure of information
 Immunity and liability

CHAPTER 92
IOWA FATALITY REVIEW COMMITTEE

92.1(135)	Purpose
92.2(135)	Definitions
92.3(135)	Committee
92.4(135)	Formation of the committee
92.5(135)	Committee protocol for review
92.6(135)	Content of report
92.7(135)	Consultation with county attorney
92.8(135)	Supplemental report
92.9(135)	Confidentiality and disclosure of information
92.10(135)	Immunity and liability

CHAPTER 93
Reserved

CHAPTER 94
CHILD PROTECTION CENTER GRANT PROGRAM

94.1(135)	Scope and purpose
94.2(135)	Definitions
94.3(135)	Goals
94.4(135)	Review process
94.5(135)	Eligibility and criteria
94.6(135)	Appeals

CHAPTER 95
VITAL RECORDS: GENERAL ADMINISTRATION

95.1(144)	Definitions
95.2(144)	Vital records and statistics
95.3(144)	Forms—property of department
95.4(144)	Information by others
95.5(144)	Handling of vital records
95.6(144)	Fees
95.7(144)	General public access of vital records in the custody of the county registrar
95.8(144)	Direct tangible interest in and entitlement to a vital record
95.9(144)	Search and issuance of a certified copy of a vital record
95.10(144)	Search and issuance for genealogy or family history
95.11(144)	Registrars' responsibility for maintenance of confidentiality
95.12(144)	Disclosure of data
95.13(144)	Preparation of certified copies
95.14(144)	Access to original certificate of birth prior to adoption
95.15(144)	Certificate of nonviable birth
95.16(144)	Cancellation of fraudulent records
95.17(144)	Unlawful acts
95.18(144)	Enforcement assistance

CHAPTER 96
BIRTH REGISTRATION

96.1(144)	Definitions
96.2(144)	Forms—property of department
96.3(144)	Standard birth registration—up to seven days
96.4(144)	Standard birth registration—seven days to one year
96.5(144)	Birthing institutions

96.6(144)	Non-birthing institutions
96.7(144)	Non-institution birth
96.8(144)	Gestational surrogate arrangement birth registration
96.9(144)	Foundling birth registration
96.10(144)	Newborn safe haven registration
96.11(144)	Birth registration following a foreign-born adoption
96.12(144)	Birth registration fees
96.13(144)	Fee collection
96.14(144)	Waivers
96.15(144)	Fee deposit
96.16(144)	Responsibilities of institutions
96.17(144)	Responsibility for births occurring in non-institutions and non-birthing institutions
96.18(144)	Delayed birth registration—one year or more after event

CHAPTER 97

DEATH REGISTRATION AND DISPOSITION OF DEAD HUMAN BODIES

97.1(144)	Definitions
97.2(144)	Forms—property of department
97.3(144)	Standard registration of death—up to one year
97.4(144)	Standard registration of fetal death—up to one year
97.5(144)	Preparation of the certificate of death or fetal death
97.6(144)	Medical certification of death
97.7(144)	Medical certification of fetal death
97.8(144)	Medical certifier
97.9(144)	Report of autopsy findings
97.10(144)	Extension of time
97.11(144)	Removal of a dead human body or fetus
97.12(144)	Burial-transit permit
97.13(144)	Transportation and disposition of a dead human body or fetus
97.14(144)	Disinterment permits
97.15(144)	Delayed death registration—one year or more after event
97.16(144)	Registration of presumptive death
97.17(144)	Release or final disposition of a dead human body or fetus by an institution
97.18(144)	Additional record by funeral director

CHAPTER 98

MARRIAGE REGISTRATION

98.1(144,595)	Definitions
98.2(144,595)	Forms—property of department
98.3(144,595)	Standard registration of marriage—up to one year
98.4(144,595)	Application for a license to marry in Iowa
98.5(144,595)	License to marry
98.6(144, 595)	Certificate of marriage
98.7(144,595)	Delayed registration of marriage—one year or more after date of event
98.8(144,595)	Dissolution of marriage or annulment

CHAPTER 99

VITAL RECORDS MODIFICATIONS

99.1(144)	Definitions
99.2(144)	Forms—property of department
99.3(144)	Forms used in the establishment of new records
99.4(144)	Corrections of minor error in vital record—within one year of event

99.5(144)	Amendment of certificate of live birth to add first or middle given name—within one year of event
99.6(144)	Amendment of vital record—one year or more after the event
99.7(144)	Method of amendment of vital records
99.8(144)	Correction or amendment of same item more than once
99.9(144)	Other amendments to certificate of live birth
99.10(144)	Correction or amendment to medical certification of cause of death
99.11(144)	Correction or amendment to a certificate of marriage
99.12(144)	Correction to a report of dissolution of marriage or annulment
99.13(144)	Minimum information required to establish a new certificate of live birth
99.14(144)	Establishment of new certificate of live birth following adoption
99.15(144)	Establishment of new certificate of live birth following a birth by gestational surrogate arrangement
99.16(144)	Certificate of live birth following voluntary paternity affidavit
99.17(144)	Certificate of live birth following court determination of paternity
99.18(144)	Certificate of live birth following rescision of paternity affidavit or disestablishment of paternity
99.19(144)	Certificate of live birth following court-ordered change of name
99.20(144)	Certificate of live birth following sex designation change

CHAPTER 100

VITAL RECORDS REGISTRIES AND REPORTS

100.1(144)	Definitions
100.2(144)	Forms—property of department
100.3(144)	Declaration of paternity registry established
100.4(144)	Mutual consent voluntary adoption registry established
100.5(144)	Statistical report of termination of pregnancy report

CHAPTERS 101 to 106

Reserved

CHAPTER 107

BOARD-CERTIFIED BEHAVIOR ANALYST AND BOARD-CERTIFIED ASSISTANT BEHAVIOR ANALYST (BCBA/BCaBA) GRANTS PROGRAM

107.1(135)	Scope and purpose
107.2(135)	Definitions
107.3(135)	Eligibility criteria
107.4(135)	Priority in grant awards
107.5(135)	Amount of a grant
107.6(135)	Use of funds
107.7(135)	Review process
107.8(135)	Reporting

CHAPTER 108

MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM

108.1(135)	Scope and purpose
108.2(135)	Definitions
108.3(135)	Eligibility criteria—establishment or expansion
108.4(135)	Eligibility criteria—support
108.5(135)	Amount of grant
108.6(135)	Application and review process

CHAPTER 109

PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM

- 109.1(135M) Definitions
- 109.2(135M) Purpose
- 109.3(135M) Eligibility criteria for program participation by medical facilities and pharmacies
- 109.4(135M) Standards and procedures for accepting donated prescription drugs and supplies
- 109.5(135M) Standards and procedures for inspecting and storing donated prescription drugs and supplies
- 109.6(135M) Standards and procedures for dispensing donated prescription drugs and supplies
- 109.7(135M) Eligibility criteria for individuals to receive donated prescription drugs and supplies
- 109.8(135M) Forms and record keeping
- 109.9(135M) Handling fee
- 109.10(135M) List of drugs and supplies program will accept
- 109.11(135M) Exemption from disciplinary action, civil liability and criminal prosecution
- 109.12 and 109.13 Reserved
- 109.14(135M) Prescription drug donation repository in disaster emergencies

CHAPTER 110

CENTER FOR RURAL HEALTH
AND PRIMARY CARE

- 110.1(135) Purpose and scope
- 110.2(135,135B) Definitions
- 110.3(135) Responsibilities of the center
- 110.4 to 110.10 Reserved

PRIMECARRE HEALTH CARE WORKFORCE AND COMMUNITY SUPPORT GRANT PROGRAM

- 110.11(135) Purpose
- 110.12 to 110.15 Reserved

PRIMECARRE PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM

- 110.16(135) Purpose

CHAPTER 111

IOWA NEEDS NURSES NOW INFRASTRUCTURE ACCOUNT

- 111.1(135) Scope and purpose
- 111.2(135) Definitions
- 111.3(135) Eligibility and criteria
- 111.4(135) Review process
- 111.5(135) Performance standards
- 111.6(135) Appeals

CHAPTER 112

Reserved

CHAPTER 113

PUBLIC HEALTH RESPONSE TEAMS

- 113.1(135) Definitions
- 113.2(135) Purpose
- 113.3(135) Sponsor agency
- 113.4(135) Public health response team members
- 113.5(135) Public health response team
- 113.6(135) Legal and other protections
- 113.7(135) Reporting requirements and duties

CHAPTER 114
PREPAREDNESS ADVISORY COMMITTEE

114.1(135)	Definitions
114.2(135)	Purpose
114.3(135)	Appointment and membership
114.4(135)	Officers
114.5(135)	Meetings
114.6(135)	Subcommittees
114.7(135)	Expenses of preparedness advisory committee voting members
114.8(135)	Committee composition

CHAPTERS 115 to 121
Reserved

CHAPTER 122
ANATOMICAL GIFT PUBLIC AWARENESS AND TRANSPLANTATION FUND

122.1(142C)	Scope and purpose
122.2(142C)	Definitions
122.3(142C)	State agencies or nonprofit legal entities
122.4(142C)	Hospitals
122.5(142C)	Transplant recipients and donors

CHAPTER 123
Reserved

CHAPTER 124
INTERAGENCY COORDINATING COUNCIL
FOR THE STATE MEDICAL EXAMINER

124.1(691)	Purpose
124.2(691)	Membership
124.3(691)	Meetings
124.4(691)	Duties
124.5(691)	Minutes

CHAPTER 125
Reserved

CHAPTER 126
STATE MEDICAL EXAMINER

126.1(144,331,691)	Definitions
126.2	Reserved
126.3(691)	Fees for autopsies and related services and reimbursement for related expenses
126.4(691)	Fees for tissue recovery

CHAPTER 127
COUNTY MEDICAL EXAMINERS

127.1(144,331,691)	Definitions
127.2(331,691)	Duties of medical examiners—jurisdiction over deaths which affect the public interest
127.3(331,691)	Autopsies
127.4(331,691)	Fees
127.5(144,331,691)	Death certificates—deaths affecting the public interest
127.6(331,691)	Cremation
127.7(331,691)	County medical examiner investigators

- 127.8(331,691) Deputy county medical examiners
- 127.9(331,691) Failure to comply with rules
- 127.10(331,691,22) Confidentiality
- 127.11(331,691,670) Indemnification

CHAPTERS 128 and 129
Reserved

CHAPTER 130

EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

- 130.1(147A) Definitions
- 130.2(147A) Purpose
- 130.3(147A) Appointment and membership
- 130.4(147A) Officers
- 130.5(147A) Meetings
- 130.6(147A) Subcommittees
- 130.7 Reserved
- 130.8(147A) Council composition

CHAPTER 131

EMERGENCY MEDICAL SERVICES—PROVIDERS—INITIAL CERTIFICATION—RENEWAL
AND REACTIVATION—AUTHORITY—COMPLAINTS AND INVESTIGATIONS

- 131.1(147A) Purpose
- 131.2(147A,147D,272C) Definitions
- 131.3(147A,272C) Initial certification
- 131.4(147A) Background check results
- 131.5(147A) Authority
- 131.6(147A) Renewal standards, reactivation procedures, fees, and continuing education
- 131.7(147A,272C) Discipline—denial, citation and warning, probation, suspension, or revocation of certificates or renewal
- 131.8(147A) Certification denial
- 131.9(147A) Emergency adjudicative proceedings
- 131.10(147A) Complaints, investigations and appeals

CHAPTER 132

EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

- 132.1(147A) Definitions
- 132.2(147A) Service program—authorization and renewal procedures and inspections
- 132.3(147A) Service program operations
- 132.4(147A) Waivers
- 132.5(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal

CHAPTER 133

WHITE FLASHING LIGHT AUTHORIZATION

- 133.1(321) Definitions
- 133.2(321) Purpose
- 133.3(321) Application
- 133.4(321) Approval, denial, probation, suspension and revocation of authorization
- 133.5(321) Appeal of denial, probation, or revocation of authorization

CHAPTER 134
TRAUMA CARE FACILITY CATEGORIZATION
AND VERIFICATION

- 134.1(147A) Definitions
- 134.2(147A) Trauma care facility categorization and verification
- 134.3(147A) Complaints and investigations and appeals—denial, citation and warning, probation, suspension, and revocation of verification as a trauma care facility

CHAPTER 135
TRAUMA TRIAGE AND TRANSFER PROTOCOLS

- 135.1(147A) Definitions
- 135.2(147A) Trauma triage and transfer protocols
- 135.3(147A) Offenses and penalties

CHAPTER 136
TRAUMA REGISTRY

- 136.1(147A) Definitions
- 136.2(147A) Trauma registry
- 136.3(147A) Offenses and penalties

CHAPTER 137
TRAUMA EDUCATION AND TRAINING

- 137.1(147A) Definitions
- 137.2(147A) Initial trauma education requirements
- 137.3(147A) Continuing trauma education requirements
- 137.4(147A) Offenses and penalties

CHAPTER 138
TRAUMA SYSTEM ADVISORY COUNCIL

- 138.1(147A) Definitions
- 138.2(147A) Purpose and duties
- 138.3(147A) Appointment and membership
- 138.4(147A) Officers
- 138.5(147A) Meetings
- 138.6(147A) Subcommittees
- 138.7(147A) Confidentiality
- 138.8(147A) Documentation
- 138.9 Reserved
- 138.10(147A) Council composition

CHAPTER 139
EMERGENCY MEDICAL SERVICES—TRAINING PROGRAMS—STUDENTS—COMPLAINTS
AND INVESTIGATIONS

- 139.1(147A) Purpose
- 139.2(147A) Definitions
- 139.3(147A) Initial application, renewal application, inspection and approval
- 139.4(147A) Training program standards, student requirements and waivers
- 139.5(147A) Out-of-state training programs
- 139.6(147A) Failure to comply with rules
- 139.7(147A) Temporary waivers
- 139.8(147A) Continuing education providers—approval, record keeping and inspection

- 139.9(147A) Discipline—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal
 139.10(147A) Complaints, investigations and appeals

CHAPTER 140

EMERGENCY MEDICAL SERVICES SYSTEM DEVELOPMENT GRANTS FUND

- 140.1(135) Definitions
 140.2(135) Purpose
 140.3(135) County EMS associations
 140.4(135) County EMS system development grants

CHAPTER 141

LOVE OUR KIDS GRANT

- 141.1(321) Definitions
 141.2(321) Purpose
 141.3(321) Funding limitations
 141.4(321) Use of funds
 141.5(321) Application process
 141.6(321) Application denial—appeal

CHAPTER 142

OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS

- 142.1(144A) Definitions
 142.2(144A) Purpose
 142.3(144A,147A) Responsibilities of the department
 142.4(144A,147A) EMS providers
 142.5(144A) Guidelines for non-EMS health care providers, patients, and organizations
 142.6(144A) Revocation of the out-of-hospital do-not-resuscitate order
 142.7(144A) Personal wishes of family members or other individuals who are not authorized to act on the patient's behalf
 142.8(144A) Transfer of patients
 142.9(144A) Application to existing orders

CHAPTER 143

AUTOMATED EXTERNAL DEFIBRILLATOR MAINTENANCE

- 143.1(613) Purpose
 143.2(613) Definition
 143.3(613) AED maintenance

CHAPTER 144

EMERGENCY MEDICAL SERVICES—AIR MEDICAL SERVICE PROGRAM AUTHORIZATION

- 144.1(147A) Definitions
 144.2(147A) Authority of emergency medical care provider
 144.3(147A) Air ambulance service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
 144.4(147A) Service program levels of care and staffing standards
 144.5(147A) Air ambulance service program—off-line medical direction
 144.6(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
 144.7(147A) Temporary waivers
 144.8(147A) Transport options for air medical services

CHAPTER 145
IOWA PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

- 145.1(144D) Definitions
- 145.2(144D) Purpose
- 145.3(144D) Responsibilities of the department

CHAPTER 146
STROKE CARE REPORTING

- 146.1(135) Purpose
- 146.2(135) Definitions
- 146.3(135) Stroke care reporting
- 146.4(135) Method and frequency of reporting
- 146.5(135) Confidentiality
- 146.6(135) Penalties and enforcement

CHAPTERS 147 to 149
Reserved

CHAPTER 150
IOWA REGIONALIZED SYSTEM OF PERINATAL HEALTH CARE

- 150.1(135) Purpose and scope
- 150.2(135) Definitions
- 150.3(135) Perinatal guidelines advisory committee
- 150.4(135) Duties of statewide perinatal care team
- 150.5(135) Duties of the department
- 150.6(135) Maternal and neonatal levels of care—categorization and verification
- 150.7(135) Levels of maternal care
- 150.8(135) Maternal-fetal transport—all levels
- 150.9(135) Levels of neonatal care
- 150.10(135) Grant or denial of certificate of verification; and offenses and penalties
- 150.11(135) Prohibited acts
- 150.12(135) Construction of rules

CHAPTER 151
TOBACCO USE PREVENTION AND CONTROL
COMMUNITY PARTNERSHIP INITIATIVE

- 151.1(142A) Scope
- 151.2(142A) Community partnership areas
- 151.3(142A) Community partnerships
- 151.4(142A) Application requirements for community partnerships
- 151.5(142A) Performance indicators
- 151.6(142A) Application deadline
- 151.7(142A) Distribution of funding
- 151.8(142A) Gifts

CHAPTER 152
TOBACCO USE PREVENTION AND CONTROL FUNDING PROCESS

- 152.1(78GA, HF2565) Scope and purpose
- 152.2(78GA, HF2565) Funding
- 152.3(78GA, HF2565) Appeals

CHAPTER 153
SMOKEFREE AIR

- 153.1(82GA,HF2212) Purpose and scope
- 153.2(82GA,HF2212) Definitions
- 153.3(82GA,HF2212) Prohibition of smoking
- 153.4(82GA,HF2212) Areas where smoking not regulated
- 153.5(82GA,HF2212) Duties of employers, owners, operators, managers, and persons having custody or control of a public place, place of employment, area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, or outdoor areas where smoking is prohibited
- 153.6(82GA,HF2212) Duties of other state agencies and political subdivisions
- 153.7(82GA,HF2212) Leases
- 153.8(82GA,HF2212) Complaints and enforcement
- 153.9(82GA,HF2212) Limitation of rules

CHAPTER 154
MEDICAL CANNABIDIOL PROGRAM

- 154.1(124E) Definitions

REGISTRATION CARDS

- 154.2(124E) Health care practitioner certification—duties and prohibitions
- 154.3(124E) Medical cannabidiol registration card—application and issuance to patient
- 154.4(124E) Medical cannabidiol registration card—application and issuance to primary caregiver
- 154.5 Reserved
- 154.6(124E) Denial and cancellation
- 154.7(124E) Appeal
- 154.8(124E) Duplicate card
- 154.9(124E) Renewal
- 154.10(124E) Confidentiality
- 154.11 Reserved
- 154.12(124E) Fees
- 154.13(124E) Use of medical cannabidiol—smoking prohibited
- 154.14(124E) Allowable forms of medical cannabidiol
- 154.15 Reserved

MANUFACTURING

- 154.16(124E) Duties of the department
- 154.17(124E) Manufacturer operations
- 154.18(124E) Security requirements
- 154.19(124E) Location
- 154.20(124E) Advertising and marketing
- 154.21(124E) Packaging and labeling
- 154.22(124E) Transportation of medical cannabidiol and plant material
- 154.23(124E) Disposal of medical cannabidiol and plant material
- 154.24(124E) Record-keeping requirements
- 154.25(124E) Production requirements
- 154.26(124E) Quality assurance and control
- 154.27(124E) Supply and inventory
- 154.28(124E) Inspection by department or independent consultant
- 154.29(124E) Assessment of penalties
- 154.30(124E) Suspension or revocation of a manufacturer license
- 154.31(124E) Closure of operations

154.32 to 154.39 Reserved

DISPENSING

154.40(124E) Duties of the department
 154.41(124E) Dispensary operations
 154.42(124E) Security requirements
 154.43(124E) Location
 154.44(124E) Advertising and marketing
 154.45(124E) Storage
 154.46(124E) Dispensing
 154.47(124E) Transportation of medical cannabidiol
 154.48(124E) Disposal of medical cannabidiol
 154.49(124E) Record-keeping requirements
 154.50(124E) Quality assurance and control
 154.51(124E) Inventory
 154.52(124E) Inspection by department or independent consultant
 154.53(124E) Assessment of penalties
 154.54(124E) Suspension or revocation of a dispensary license
 154.55(124E) Closure of operations
 154.56 to 154.59 Reserved

MEDICAL CANNABIDIOL BOARD

154.60(124E) Purpose and duties of board
 154.61(124E) Organization of board and proceedings
 154.62(124E) Official communications
 154.63(124E) Office hours
 154.64(124E) Public meetings
 154.65(124E) Petitions for the addition or removal of medical conditions, medical treatments
 or debilitating diseases
 154.66 to 154.68 Reserved

LABORATORY TESTING

154.69(124E) Requirements of the department
 154.70(124E) Requirements of a laboratory
 154.71(124E) Requirements of a manufacturer
 154.72(124E) Content testing
 154.73(124E) Reporting requirements
 154.74(124E) Record-keeping requirements
 154.75(124E) Quality control
 154.76(124E) Security requirements

CHAPTER 155

LICENSURE STANDARDS FOR SUBSTANCE USE DISORDER AND
 PROBLEM GAMBLING TREATMENT PROGRAMS

155.1(125,135) Definitions
 155.2(125,135) Licensing
 155.3(125,135) Types of licenses
 155.4(125,135) Nonassignability
 155.5(125,135) Application procedures
 155.6(125,135) Technical assistance
 155.7(125,135) Inspection of applicants
 155.8(125,135) License—approval
 155.9(125,135) Written corrective action plan
 155.10(125,135) Grounds for denial of license

- 155.11(125,135) Denial, suspension or revocation of a license
- 155.12(125,135) Contested case hearing
- 155.13(125,135) Rehearing application
- 155.14(125,135) Judicial review
- 155.15(125,135) Issuance of a license after denial, suspension or revocation
- 155.16(125,135) Complaints and investigations
- 155.17(125,135) License revision
- 155.18(125,135) Deemed status
- 155.19(125,135) Funding
- 155.20(125,135) Inspection
- 155.21(125,135) General standards for all programs
- 155.22(125,135) Inpatient and residential program facilities
- 155.23(125,135) Specific standards for inpatient and residential programs
- 155.24(125,135) Specific standards for inpatient and residential programs licensed to provide services to juveniles
- 155.25(125,135) Specific standards for substance use assessment and OWI evaluation-only programs
- 155.26 to 155.33 Reserved
- 155.34(125,135) Specific standards for enhanced treatment services
- 155.35(125,135) Specific standards for opioid treatment programs

TUBERCULOSIS (TB) SCREENING: HEALTH CARE WORKERS AND RESIDENTS

- 155.36(125,135) Purpose
- 155.37(125,135) Definitions
- 155.38(125,135) Tuberculosis screening of staff and residents

CHAPTER 156
CONSUMABLE HEMP PRODUCTS

- 156.1(204) Definitions
- 156.2(204) Registration and posting
- 156.3(204) Testing requirements and documentation
- 156.4(204) Packaging and labeling requirements
- 156.5(204) Applicability of other laws and regulations
- 156.6(204) Prohibitions
- 156.7(204) Violations and enforcement
- 156.8(204) Denial, suspension, or revocation of registration
- 156.9(204) Inspection and access to records
- 156.10(204) Public examination of records
- 156.11(204) Appeals

CHAPTER 157
STANDARDS FOR SUBSTANCE ABUSE TREATMENT AND
ASSESSMENT PROGRAMS AND THE OPERATING A MOTOR VEHICLE
WHILE INTOXICATED (OWI) LAW

- 157.1(125) Definitions
- 157.2(125) Screening, evaluation, treatment, and drinking drivers course
- 157.3(125) Screening, evaluation, treatment, and drinking drivers course completion
- 157.4(125) Cost of evaluation and treatment
- 157.5(125) Timeliness
- 157.6(125) Confidentiality
- 157.7(125) Records
- 157.8(125) Reciprocity

CHAPTER 158

REGIONS FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT

158.1(125)	Service areas established
158.2(125)	Request for a change in service areas
158.3(125)	Application
158.4(125)	Notification of affected parties
158.5(125)	Public hearing
158.6(125)	Proposed decision
158.7(125)	Change during term of contract
158.8(125)	State board of health review
158.9(125)	State board of health decision

CHAPTERS 159 to 175

Reserved

CHAPTER 176

CRITERIA FOR AWARDS OR GRANTS

176.1 to 176.6	Reserved
176.7(135,17A)	Public notice of available funds

CHAPTER 177

HEALTH DATA

177.1(76GA,ch1212)	Purpose
177.2(76GA,ch1212)	Definitions
177.3(76GA,ch1212)	Description of data to be submitted
177.4(76GA,ch1212)	Department studies
177.5(76GA,ch1212)	Fees
177.6(76GA,ch1212)	Patient confidentiality
177.7	Reserved
177.8(76GA,ch1212)	Address and specification for data submissions

CHAPTERS 178 to 190

Reserved

CHAPTER 191

ADVISORY BODIES OF THE DEPARTMENT

191.1(135)	Definitions
191.2(135)	Purpose
191.3(135)	Appointment
191.4(135)	Officers
191.5(135)	Meetings
191.6(135)	Subcommittees
191.7(135)	Expenses of advisory body members
191.8(135)	Gender balance

CHAPTER 192

CHILD SUPPORT NONCOMPLIANCE

192.1(252J)	Definitions
192.2(252J)	Issuance or renewal of a license—denial
192.3(252J)	Suspension or revocation of a license
192.4(17A,22,252J)	Sharing of information

CHAPTER 193

MODEL RULES FOR LICENSEE REVIEW COMMITTEE

193.1(272C)	Definitions
193.2(272C)	Purpose
193.3(272C)	Composition of the committee
193.4(272C)	Eligibility
193.5(272C)	Terms of participation in the impaired practitioner recovery program
193.6(272C)	Confidentiality

CHAPTER 194

NONPAYMENT OF STATE DEBT

194.1(272D)	Definitions
194.2(272D)	Issuance or renewal of a license—denial
194.3(272D)	Suspension or revocation of a license
194.4(272D)	Sharing of information

CHAPTER 195

Reserved

CHAPTER 196

MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS

196.1(272C)	Definitions
196.2(272C)	Military education, training, and service credit
196.3(272C)	Veteran and active duty military spouse reciprocity

CHAPTERS 197 to 201

Reserved

CHAPTER 202

CERTIFICATE OF NEED PROGRAM

202.1(135)	Definitions
202.2(135)	Letter of intent
202.3(135)	Determination of reviewability
202.4(135)	Submission of application
202.5(135)	Organizational procedures
202.6(135)	Public hearing on application
202.7(135)	Summary review
202.8(135)	Extension of review time
202.9(135)	Rehearing of certificate of need decision
202.10(135)	Status reports to affected persons
202.11(135)	Finality
202.12(135)	Project progress reports
202.13(135)	Request for extension of certificate
202.14(135)	Application changes after approval
202.15(135)	Sanctions
202.16(135)	Reporting requirements

CHAPTER 203

STANDARDS FOR CERTIFICATE OF NEED REVIEW

203.1	Reserved
203.2(135)	Cardiac catheterization and cardiovascular surgery standards
203.3(135)	Radiation therapy standards
203.4(135)	Computerized tomography standards

203.5(135)	Long-term care
203.6 and 203.7	Reserved
203.8(135)	Financial and economic feasibility
203.9 to 203.11	Reserved
203.12(135)	Magnetic resonance imaging services standards
203.13(135)	Positron emission tomography services standards

CHAPTER 22
PRACTICE OF TATTOOING

641—22.1 Reserved.

641—22.2(10A) Definitions. For the purpose of these rules, the following definitions apply:

“Aftercare” means written instructions given to a client, specific to the procedures rendered, on care for the tattoo and surrounding area and guidance on when to seek medical treatment.

“Department” means the same as defined in Iowa Code section 10A.101.

“Director” means the same as defined in Iowa Code section 10A.101.

“Disinfectant” means a U.S. Environmental Protection Agency (EPA)-registered antimicrobial product that is applied to surfaces to destroy microorganisms that are living on the surface but not necessarily bacterial spores.

“Imminent health threat” means a condition or conditions that exist in a tattoo establishment and need immediate action to prevent endangering the health of people.

“Impervious” means nonporous, impenetrable, smooth, and washable.

“Inspection agency” means the department or a city, county or district board of health that has executed an agreement with the department to inspect tattoo establishments and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the “local inspection agency.”

“Mobile tattoo unit” means a mobile establishment or unit that is self-propelled or otherwise movable from place to place; is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal; and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.

“Residential dwelling” is a place or structure intended to be occupied as a residence.

“Single use” means intended for one-time use and disposed of after use on a client. Single-use products or items include cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, disposable razors, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves. Cloth towels and linens are not “single use” and are barred.

“Sterilization” means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores that demonstrate tuberculocidal activity.

“Tattoo artist” means any person, including a permanent color technologist, engaged in the practice of tattooing.

“Tattoo establishment” means the building or portion of the building designated by the owner where tattooing is practiced.

“Tattooing” means to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs. “Tattooing” includes permanent color technology that is the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes. “Tattooing” does not include applying a tattoo for radiological purposes.

“Temporary establishment permit” means a permit issued by the department to perform tattoo procedures at a temporary event.

“Temporary event” means any place or premises operating at a fixed location where a tattoo artist performs tattooing procedures for no more than 14 days consecutively in conjunction with a single event or celebration to which the general public is invited.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.3(10A) General provisions.

22.3(1) Tattoo artists and tattoo establishments that fail to meet the criteria of Iowa Code section 10A.531 or these rules are guilty of a serious misdemeanor.

22.3(2) Compliance with Iowa Code section 10A.531 and these rules does not exempt tattoo artists and tattoo establishments from other applicable state or local laws.

22.3(3) Tattooing may only be practiced in facilities that have applied for and received a tattoo establishment permit pursuant to Iowa Code section 10A.531. Tattooing performed in the practice of medicine by a physician, surgeon, osteopathic physician or surgeon, or other qualified licensed or certified nonphysician persons to whom a physician, surgeon, osteopathic physician or surgeon has appropriately delegated pursuant to 653—Chapter 13 does not require a permit pursuant to Iowa Code section 10A.531.

22.3(4) Notwithstanding local zoning codes, where zoning codes exist, tattooing shall not be practiced in a residential dwelling, inclusive of an attached garage. New tattoo establishments must be in commercial buildings where zoning ordinances exist. A waiver will be granted to any tattoo establishment in a residential dwelling if it has been operating continuously since being granted a permit prior to January 1, 2010.

22.3(5) Tattoo establishments are inspected annually.
[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.4(10A) Sanitation and infection control. Tattoo establishments shall comply with the following:

22.4(1) Tables, chairs, and other general-use equipment in the tattoo area are constructed of impervious and easily cleanable material.

22.4(2) A sink for hand washing supplied with potable hot and cold running water under pressure to a mixing-type faucet is easily accessible in the tattooing area. Hand-washing facilities are supplied with liquid soap and single-use towels or hand dryer.

22.4(3) Easily accessible toilet facilities with a sink for hand washing are available for employee use and patron use.

22.4(4) The tattoo establishment has an area of at least 300 square feet and is adequately lighted and ventilated.

22.4(5) Floors in the tattoo area are finished with an impervious, washable surface.

22.4(6) The entire premises and all facilities used in connection therewith are maintained in a clean, sanitary, vermin-free condition and in good repair.

22.4(7) All refuse is stored in rigid containers with plastic liners that are emptied at least once each business day.

22.4(8) Closed cabinets or containers are exclusively used for the storage of instruments, dyes, pigments, stencils, tattoo machines, and other equipment.

22.4(9) Smoking is not allowed pursuant to Iowa Code chapter 142D.

22.4(10) Consumption of food or drink is not allowed in the tattoo area.

22.4(11) Intoxicating beverages or controlled substances will not be used, consumed, served, possessed, or distributed on the establishment's premises.

22.4(12) Tattoo artists not currently permitted in the state of Iowa will not tattoo in the establishment.

22.4(13) No animals, except service animals, are permitted in a tattoo establishment. Aquariums containing fish are allowed in waiting rooms and non-tattoo areas.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.5(10A) Equipment. Tattoo establishments shall maintain equipment in a clean and sanitary condition and comply with the following:

22.5(1) Cups to hold ink or dye are for single-patron use. Any ink or dye, once dispensed into an ink cup, is disposed of immediately following use.

22.5(2) Any dye or ink in which needles were dipped is not used on another person.

22.5(3) All tubes, tips and grips used for the tattoo procedure that are not sterile, not for single-patron use, and not disposable are physically cleaned with a detergent according to manufacturers' recommendations and then steam-sterilized or dry-heat sterilized before use on another person. Steam sterilization is at 250 degrees Fahrenheit (121 degrees Celsius) for 15 minutes at a minimum pressure

of 15 pounds per square inch. Dry-heat sterilization is at 350 degrees Fahrenheit (170 degrees Celsius) for one hour. Steam sterilization is preferred.

22.5(4) All instruments needing sterilization are sterilized on site. All instruments to be sterilized are placed in closed pouches after sterilization is complete. The pouches are dated effective for 30 days, after which the instruments are resterilized and the pouches redated.

22.5(5) Sterilizers are monitored monthly for spores of *Bacillus subtilis*, and records of results are maintained for three years. Written procedures to follow in the event of positive spore tests are maintained and implemented, including:

a. In the event of a positive spore test, materials processed in that sterilizer, dating from the sterilization cycle having the positive biological indicator to the next cycle showing satisfactory biologic indicator challenge results, are considered nonsterile and are reprocessed before being used.

b. A sterilizer that has received a positive spore test is immediately removed from service.

c. Prior to putting a sterilizer that has received a positive spore test back into service, the owner ensures that there is evidence of one negative spore test.

d. The owner notifies the inspection agency of a positive spore test within 24 hours of receiving the test result.

22.5(6) Establishments are equipped with a puncture-resistant, leakproof container designated for disposal of used needles and other sharps. The container is red and labeled with the “biohazard” symbol and is closeable for handling, storage, transportation, and disposal. A written plan for disposal is maintained in the establishment.

22.5(7) Any bottles of solution are labeled as to contents and used according to manufacturers’ directions.

22.5(8) Single-use razors for removal of unwanted hair are disposed of after use on one patron. Electric razors used to remove unwanted hair of a patron are cleaned with a brush and fungicidal/tuberculocidal disinfectant spray.

22.5(9) Topical ointments are prepared for single-patron use.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.6(10A) Procedures. Tattoo establishments shall comply with the following:

22.6(1) Tattoo establishments will establish a written standard operating procedure (SOP) that includes the process for setup and tear down of tattoo procedures. The SOP focuses on procedures of hygiene and cross-contamination control.

22.6(2) For privacy purposes and at the patron’s request, establishments have in place or readily available a nontransparent panel or other barrier of sufficient height and width to effectively separate the patron from any unwanted observers or waiting patrons.

22.6(3) Tattoo artists scrub their hands thoroughly before beginning the tattoo procedure. Tattoo artists dry their hands with individual single-use towels or hand dryer.

22.6(4) Tattoo artists wear clean garments and disposable latex, nitrile, chloroprene, or vinyl gloves during the tattoo procedure. Gloves are changed after each tattoo. Tattoo artists wash their hands before and after each tattoo procedure.

22.6(5) All items with which the gloved hands of the tattoo artist would normally come into contact during the tattooing procedure have appropriate barrier films covering them, including clip cords, squeeze bottles, seat adjustment controls, power control dials or buttons, and work lamps.

22.6(6) The skin area to be tattooed is first cleansed with soap and water. Single-use towels or sponges (gauze) are used during the cleansing procedure.

22.6(7) Before placing the tattoo design on the patron’s skin, the tattoo artist prepares the skin with 70 percent ethyl or isopropyl alcohol solution or an equally effective antiseptic or antimicrobial.

22.6(8) Tattooing is not performed on any area where there is evidence of skin infection, irritation, or abnormalities.

22.6(9) After the tattooing is completed, the tattoo artist:

a. Applies an adequate dressing or bandage to the tattoo area.

b. Provides to the persons tattooed printed aftercare instructions regarding tattoo care during the healing process.

c. Thoroughly cleans the machine head with an acceptable disinfectant and sprays an acceptable surface disinfectant over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.7(10A) Permit issuance and renewal. The following apply to applications for a permit to practice as a tattoo artist or as a tattoo establishment.

22.7(1) An applicant will complete either an online application or a paper application according to the instructions contained in the application. Paper applications are available to download at the department's website. Each application must be accompanied by the appropriate fee as set forth in subrule 22.8(2) to be processed. A paper application is accompanied by the appropriate fee payable by check or money order to the department. Online application fees are paid by credit card only. An application that includes insufficient or incorrect fees is considered incomplete. If the applicant is notified that the application is incomplete, the applicant should contact the department within 90 days. Incomplete applications are considered invalid and destroyed after 90 days.

22.7(2) Documentation of medical conditions and criminal convictions related to the practice of the profession shall include a full explanation from the applicant. No application is considered complete until the applicant responds to any program requests for additional information regarding the applicant's medical condition or criminal conviction.

22.7(3) All permits expire on December 31 for the year issued. An applicant will submit a completed application, supporting documentation, and renewal fee annually by December 1 for renewal. The permit holder has a current permit in possession before performing tattooing. An applicant who submits a renewal application after December 1 will be obligated to pay an additional \$25 for each month delinquent.

22.7(4) The permit holder is responsible for renewing the permit prior to its expiration.

22.7(5) A permit that has not been renewed within 90 days of the permit expiration date will automatically be deactivated. There will be a \$25 reinstatement fee charged for reactivating a permit in addition to the renewal fee.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.8(10A) Fees.

22.8(1) All fees are nonrefundable.

22.8(2) Fees for all initial and renewal applications are as follows:

- a.* Tattoo artist: \$75.
- b.* Tattoo establishment: \$100.
- c.* Temporary tattoo establishment:
 - (1) 0 to 10 participating artists: \$100.
 - (2) 11 to 100 participating artists: \$200.
 - (3) 101 or more participating artists: \$300.
- d.* Mobile tattoo unit: \$100.
- e.* Mobile tattoo event: \$25 per event.
- f.* Tattoo establishment change of ownership: \$25.
- g.* Tattoo establishment change of location: \$25.
- h.* Mobile tattoo unit change of location: \$25.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.9(10A) Tattoo establishment permit criteria.

22.9(1) No tattoo establishment may operate in the state without having a permit to operate issued by the department. Permits shall be posted in a conspicuous location in the tattoo establishment.

22.9(2) A person applying for a tattoo establishment permit will submit a floor plan of the establishment with the application.

22.9(3) A permit to operate is issued to a new establishment when the department or its representative has successfully completed an on-site inspection.

22.9(4) Tattoo establishment permits are nontransferable.

22.9(5) A tattoo establishment shall retain a record of all persons who have had tattoo procedures performed at the establishment. Records include the client's name and date of birth, copy of client's identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client. Records shall be retained in a confidential manner for a minimum of three years and made available to the department or inspection agency upon request.

22.9(6) Change in ownership. Within 30 days of a change in ownership of a tattoo establishment, the new owner shall submit a change in ownership application and fee for a new permit. An on-site inspection will be completed before a permit to operate will be issued.

22.9(7) Within 30 days of a change of location of a tattoo establishment, the owner shall submit a change of location application and a fee for a new permit. An on-site inspection will be completed by the inspection agency before a permit to operate will be issued.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.10(10A) Tattoo artist permit criteria.

22.10(1) No person may perform tattooing without a current permit to operate issued by the department.

22.10(2) Each permit issued is in effect solely for the tattoo artist named thereon and remains with the tattoo artist upon any change of employment. Tattoo artist permits are nontransferable.

22.10(3) An applicant for a tattoo artist permit must be at least 18 years of age and submit government-issued documentation to show proof of attaining the age of 18 years.

22.10(4) A tattoo artist must provide proof of current certification by the American Red Cross for blood-borne pathogens and standard first aid or other equivalent, nationally recognized certification.

22.10(5) Permits shall be posted in a conspicuous place in the tattoo establishment.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.11(10A) Temporary establishment permit criteria.

22.11(1) A person must submit a temporary tattoo establishment application form, a floor plan of the facility, promotional documentation for the event, and the appropriate fee at least 30 days prior to the event to obtain a temporary establishment permit. Fees are based on the number of participating tattoo artists. The application will specify the following:

- a. The purpose for which the permit is requested.
- b. The period of time during which the permit is needed (not to exceed 14 calendar days per event).
- c. The fulfillment of tattoo artist criteria as specified in rule 641—22.10(10A). A list of participating tattoo artists shall be sent to the tattoo program no later than one week prior to the event.
- d. The location at which the temporary event will be held.

22.11(2) The temporary event must be inside a permanent building and comply with the following:

a. Conveniently located hand-washing facilities with liquid soap, single-use towels or hand dryers and potable hot and cold water under pressure to a mixing-type faucet are provided. Drainage in accordance with local plumbing codes is provided.

b. A minimum of 80 square feet of floor space is provided for each booth.

c. There is sufficient lighting where the tattoo procedure is being performed.

d. All tubes, tips and grips used for the tattoo procedure that are not single use are properly sterilized and dated 30 days or less prior to the date of the event. Evidence of a spore test performed on the sterilization equipment is dated 30 days or less prior to the date of the event. Single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers is allowed.

e. Tattoo artists properly clean and sanitize the area used for tattoo procedures.

f. Floors of the tattooing area(s) are smooth and impervious or covered with an impermeable barrier.

22.11(3) The facility where the temporary event will be held must be inspected by the designated inspection agency and issued a permit prior to the performance of any tattoo procedures. A \$50 inspection fee for each booth shall be made payable to the inspection agency.

22.11(4) No animals, except service animals, are allowed in the temporary establishment at any time.

22.11(5) Temporary establishment permits issued under the provisions of these rules may be suspended by the department for failure of the holder to comply with these rules.

22.11(6) Temporary establishment permits and tattoo artist permits shall be posted in a conspicuous place in the temporary establishment.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.12(10A) Mobile tattoo unit permit criteria. No new mobile tattoo units will be permitted. Mobile tattoo units granted a permit prior to September 7, 2016, may continue to operate with a current permit provided they remain compliant with the rules of this chapter. Mobile tattoo units and tattoo artists working from mobile tattoo units shall comply with the following:

22.12(1) No mobile tattoo unit is operated in the state without having a permit to operate issued by the department.

22.12(2) All tattoo artists working in a mobile tattoo unit have a permit and comply with these rules. Artist permits are posted in a conspicuous location in the mobile tattoo unit.

22.12(3) Mobile tattoo unit permits are posted in a conspicuous place in the mobile tattoo unit.

22.12(4) Mobile tattoo unit permits are nontransferable.

22.12(5) Within 30 days of a change of address of where the mobile tattoo unit is housed, the owner submits a new application and a fee for a new permit.

22.12(6) Inspections will be conducted by the local jurisdiction in which the mobile tattoo unit is housed. Any out-of-state mobile tattoo units maintaining an Iowa mobile tattoo unit permit must be inspected annually.

22.12(7) Mobile tattoo units are permitted for use only at temporary events lasting 14 calendar days or less. Permits are obtained at least 14 days prior to the event, and no tattoo procedures are performed before a permit is issued. Promotional documentation of the event is included with the application. Permit holders are responsible for compliance with all other local regulations including but not limited to zoning and business license criteria.

22.12(8) The mobile tattoo unit is maintained in a clean and sanitary condition at all times. Doors are tight-fitting. Openable windows have tight-fitting screens.

22.12(9) Mobile tattoo units meet the sterilization criteria in accordance with rule 641—22.5(10A).

22.12(10) Mobile tattoo units are used only for the purpose of performing tattoo procedures. No habitation or food preparation is permitted inside the vehicle unless the tattoo work station is separated from such areas by an impervious floor-to-ceiling barrier.

22.12(11) Mobile tattoo units are equipped with a hand sink for use of the tattoo artist for hand washing and preparing the client for the tattoo procedures. The hand sink is supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer. An adequate supply of potable water is maintained for the mobile tattoo unit at all times during operation. The source of the water and storage of the tank(s) is also identified.

22.12(12) All liquid wastes are stored in an adequate storage tank with a capacity at least 15 percent greater than the capacity of the on-board potable water supply. Liquid wastes are disposed of at a publicly owned treatment works site approved by the department of natural resources (DNR).

22.12(13) Restroom facilities are available at the temporary event or within the mobile tattoo unit. A hand sink is available within a reasonably acceptable distance from the restroom. The hand sink is supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels or hand dryer.

22.12(14) All tattoo artists working in a mobile tattoo unit have a permit and comply with these rules. Permits are posted in a conspicuous location in the mobile tattoo unit.

22.12(15) No animals, except service animals, are allowed in the mobile tattoo unit at any time.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.13(10A) Inspections.

22.13(1) An inspection fee of \$250 is due upon receipt of a notice of payment due, which will be billed by the inspection agency upon completion of an inspection.

22.13(2) Tattoo establishments are inspected annually and the reports of inspections maintained by the inspection agency for three years.

22.13(3) When the tattoo establishment is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency are paid to the local inspection agency or its designee.

22.13(4) If an inspection agency determines that an additional physical inspection is necessary, including to review corrected deficiencies or in response to a complaint of a potential imminent health threat, the inspection agency may charge an inspection fee based on the actual cost of providing the inspection, including the inspector's time and mileage expenses. Any such fee charged shall not exceed the fee identified in subrule 22.13(1).

22.13(5) Unpaid inspection fees are delinquent 30 days after the date of the bill. A late fee of \$30 per month will be assessed to the establishment owner after a 30-day notice. If inspection fees remain unpaid after 60 days, an order to cease and desist operations will be issued by the department.

22.13(6) Failure to allow an inspection is grounds for denial or suspension of a tattoo establishment's permit.

22.13(7) If an imminent health threat exists, the inspection agency or the department may order the establishment to cease operation immediately pursuant to Iowa Code section 17A.18A. Operation shall not be resumed until authorized by the inspection agency or the department.

22.13(8) Safety data sheets (SDS) for the chemicals used at the tattoo establishment shall be maintained at the establishment and made available upon request.

22.13(9) The most recent routine inspection report, along with any reinspection reports, shall be posted in a location at the establishment that is readily visible to the public.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.14(10A) Tattoo inspector qualifications. Tattoo inspectors shall have successfully completed a blood-borne pathogen certification course from the American Red Cross or an equivalent nationally recognized organization, documentation of which is maintained by the local inspection agency.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.15(10A) Enforcement. The inspection agency may take the following steps when enforcement of these rules is necessary.

22.15(1) Owner notification. The inspection agency will provide written notification to the owner of the establishment that:

- a. Cites each section of the Iowa Code or rule of the Iowa Administrative Code violated.
- b. Specifies the manner in which the owner or operator failed to comply.
- c. Specifies the steps needed for correcting the violation.
- d. Requests a corrective action plan, including a time schedule for completion of the plan.
- e. Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the establishment must respond.

22.15(2) Corrective action plan review. The inspection agency will review the corrective action plan and approve it or direct modifications.

22.15(3) Failure to comply. If the owner of a tattoo establishment, mobile tattoo unit, or temporary establishment fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapter 10A or local ordinances.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

641—22.16(10A) Adverse actions and appeals.

22.16(1) Failure to abide by Iowa Code section 10A.531 or this chapter may result in adverse action, including the denial or revocation of a permit, or an order to cease operations until necessary corrective

action has been taken. If the establishment continues to be operated in violation of the order of the department, the department may refer the matter to the county attorney or attorney general for injunction, criminal penalties, or other appropriate action.

22.16(2) The following are particular instances that may result in adverse action as set forth in subrule 22.16(1):

- a.* Any material misstatement in the application, renewal, or any supplementary statement.
- b.* Failure to pay fees in accordance with this chapter.
- c.* Operation without a current permit.
- d.* Falsification of records, qualifications, or other information related to permitting approval.
- e.* Failure to correct any violation identified during an inspection that jeopardizes public safety.
- f.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts that may constitute unethical conduct include:
 - (1) Verbally or physically abusing a patron.
 - (2) Improper sexual contact with, sexual harassment of, or improper sexual advances upon a patron. Sexual harassment includes sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
 - (3) Betrayal of a professional confidence.
 - (4) Engaging in a professional conflict of interest.
- g.* Failing to cooperate with an investigation or engaging in conduct attempting to subvert an investigation.
- h.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- i.* Knowingly aiding, assisting or advising a person to unlawfully practice tattooing.
- j.* Representing oneself as a tattoo artist when one's permit has been denied, suspended, revoked, lapsed, or placed on inactive status.
- k.* Mental or physical inability reasonably related to and adversely affecting the tattoo artist's ability to practice in a safe and competent manner.
- l.* Habitual intoxication or addiction to drugs, including habitual or excessive use of drugs or alcohol that impair a tattoo artist's ability to practice with reasonable skill or safety.
- m.* Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
- n.* Violating a statute of this state or another jurisdiction relating to the provision of tattooing, including but not limited to crimes involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
- o.* Having a certification or permit to practice tattooing suspended or revoked, or other disciplinary action taken by a licensing, certifying, or permitting authority in any jurisdiction. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.
- p.* Failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
- q.* Failure to appropriately respond to written communication from the department sent by registered or certified mail.

22.16(3) Notice of issuance of a denial, revocation, or order to cease operations will be served by certified mail, return receipt requested, or by personal service.

22.16(4) An aggrieved party may request a contested case appeal in writing to the department within 20 days from the date of the aggrieved party's receipt of the department's order. 481—Chapters 9 and 10 are applicable to contested case appeals.

[ARC 7832C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 10A.531.

[Filed 11/9/89, Notice 10/4/89—published 11/29/89, effective 1/3/90]

[Filed 11/15/93, Notice 9/1/93—published 12/8/93, effective 1/12/94]

[Filed 11/15/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]

[Filed ARC 7982B (Notice ARC 7530B, IAB 1/28/09), IAB 7/29/09, effective 1/1/10]

[Filed ARC 2656C (Notice ARC 2459C, IAB 3/16/16), IAB 8/3/16, effective 9/7/16]

[Filed ARC 7832C (Notice ARC 7283C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 26
BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

641—26.1(135K) Definitions.

“*ABPA*” means the American Backflow Prevention Association.

“*Administrative authority*” means an individual, board, department, or agency employed by a city, county or other political subdivision of the state and authorized by local ordinance to administer and enforce the provisions of the plumbing code.

“*Approved continuing education course*” means a department-approved course designed to supplement or refresh the knowledge of a registered tester and to meet the requirements of subparagraph 26.5(2) “a”(2).

“*Approved training course*” means a department-approved course designed to train individuals to test and repair backflow prevention assemblies.

“*ASSE*” means ASSE International.

“*AWWA*” means the American Water Works Association.

“*Backflow prevention assembly,*” for the purposes of this chapter, means a device or means to prevent backflow into a potable water system for which a method of testing the device in-line has been published by the Foundation for Cross-Connection Control and Hydraulic Research at the University of Southern California or by ASSE.

NOTE: The following assemblies are included under this definition. This is not intended to be an exclusive list. If new devices and test methods are introduced that meet the definition, they are included under the rules.

Backflow Prevention Assembly	Product Standards
Double Check Valve Assembly	ASSE 1015-2021, AWWA C510-07
Double Check Detector Assembly	ASSE 1048-2021
Pressure Vacuum Breaker	ASSE 1020-2021
Reduced Pressure Principle Backflow Preventer	ASSE 1013-2021, AWWA 511-07
Reduced Pressure Detector Assembly	ASSE 1047-2021
Spill Resistant Pressure Vacuum Breaker	ASSE 1056-2013-R2021

“*Certified*” means certified as a backflow prevention assembly tester under the requirements of ABPA, ASSE, or another third-party certification agency.

“*Department*” means the same as defined in Iowa Code section 135K.1(3).

“*Proctor*” means an individual designated by a third-party certification agency to conduct certification examinations of backflow prevention assembly testers.

“*Registered backflow prevention assembly tester*” or “*registered tester*” means the same as defined in Iowa Code section 135K.1(4).

“*Third-party certification agency*” means ABPA, ASSE or another agency approved by the department to certify the knowledge and skills of backflow prevention assembly testers.

[ARC 7833C, IAB 4/17/24, effective 5/22/24]

641—26.2(135K) Registration. No person shall test or repair a backflow prevention assembly unless the person is a registered backflow prevention assembly tester.

[ARC 7833C, IAB 4/17/24, effective 5/22/24]

641—26.3(135K) Returned checks. Any person who submits a check to the department that is returned for insufficient funds will incur a \$15 fee.

[ARC 7833C, IAB 4/17/24, effective 5/22/24]

641—26.4(135K) Backflow prevention assembly tester training.

26.4(1) Tester training.

a. A person or organization that plans to conduct or sponsor a backflow prevention assembly tester training course in Iowa shall apply to the department for approval of the course at least 15 days before the first time the course is held, using an application form provided by the department and submitting a \$200 nonrefundable fee.

b. The department will review the application and respond to the applicant within ten business days after receipt.

c. The person or organization responsible for the course content shall submit to the department any changes in the information set forth in paragraph 26.4(1)“a” every five years, no later than 30 calendar days before the end of the fifth year.

d. The course sponsor shall notify the department at least 15 days before an approved training course begins. The notification will include:

(1) Sponsoring organization name and website, contact person, mailing address, email address, and telephone number.

(2) Course dates and times.

(3) Course location, including street address.

(4) A \$50 nonrefundable fee.

e. A training course shall:

(1) Be at least 32 instructional hours and cover the following minimum subjects:

1. Backflow definitions, causes and examples.

2. Description of backflow prevention assemblies, their proper application and installation, and their operational characteristics.

3. Description and operational characteristics of test equipment.

4. Techniques for testing backflow prevention assemblies.

5. Troubleshooting of backflow prevention assemblies.

6. Recordkeeping and the responsibilities of regulatory agencies and the registered tester.

(2) Conclude with a written examination of at least 100 questions and a practical examination of testing techniques on all types of testable backflow prevention assemblies. The time for testing is in addition to the instructional hours. A score of at least 70 percent on the written examination and demonstration of proficiency in testing and troubleshooting procedures constitutes successful completion of the course. Approved third-party certification agency testing may be substituted for the course test.

f. The lead course instructor shall have documentation of successfully completing an approved training course or be certified, and have at least three years of experience in cross connection control.

g. The testing laboratory for a training course shall be equipped with the following:

(1) Examples of each of the backflow prevention assemblies from at least three different manufacturers. If fewer than three manufacturers make a type of backflow prevention assembly, at least one example of that type of backflow prevention assembly.

(2) At least one double check valve assembly and one reduced pressure principle assembly larger than two inches.

(3) At least one test station per three students.

26.4(2) Continuing education training.

a. A person or organization that plans to conduct or sponsor a continuing education course for registered testers in Iowa shall apply to the department for approval of the course at least 15 days before the course is scheduled to begin, using an application form provided by the department and submitted with a \$50 nonrefundable fee.

b. The department will review the application and respond to the applicant within ten business days after receipt.

c. A continuing education course will address cross connection control theory and practice; backflow prevention devices and methods; backflow prevention assembly installation, testing, troubleshooting and repair; codes and rules affecting cross connection control; safety issues related to installation and testing of backflow prevention assemblies; or related subjects approved by the department.

26.4(3) Third-party certification agencies.

a. Third-party certification agencies seeking approval in Iowa shall submit a written request to the department, on agency letterhead and signed by an authorized representative of the agency, that includes at least the following:

- (1) Agency name and website, contact person, mailing address, email address, and telephone number.
- (2) A description of the written examination, whether it is open- or closed-book, and information about the arrangements for administration of the examination.
- (3) A copy of the testing procedures that are the basis for the practical examination.
- (4) A description of the procedures for the practical examination and the criteria for evaluating performance.
- (5) Proctor qualifications and training.
- (6) Procedures and criteria for renewing the certification. The renewal of certification will be completed at least every five years and include knowledge and skills testing.
- (7) A history of the development and implementation of the program, as applicable.
- (8) A list of other jurisdictions where the certification is allowed and regulatory contacts in those jurisdictions.
- (9) A nonrefundable fee of \$200.

b. A third-party certification agency will not certify an individual who was trained by the agency. An individual proctor will not certify individuals who have taken a course at which the proctor was an instructor.

c. A third-party certification agency shall submit to the department any changes to the information set forth in paragraph 26.4(3) "a" every five years, no later than 30 days before the end of the fifth year. [ARC 7833C, IAB 4/17/24, effective 5/22/24]

641—26.5(135K) Registration.

26.5(1) Initial registration.

a. A person who has successfully completed an approved training course may register with the department within one year of course completion. A person who is certified may register with the department. The applicant must submit:

- (1) A completed application form provided by the department.
- (2) Documentation of successful completion of an approved training course or certification.
- (3) A nonrefundable fee of \$72.

b. A person who has completed a course of training in another state may be registered in Iowa.

The person will submit:

- (1) A completed Iowa application form provided by the department.
- (2) Documentation that:

1. The person has successfully completed a training course meeting the hour and subject requirements for an approved training course (if the person completed the training course more than 12 months before the date of the application, provide documentation that the person has attended an average of at least 2.5 hours of continuing education training per year since completing the course), or

2. The person is certified, or

3. The person is registered as a backflow prevention assembly tester in a jurisdiction that has similar or greater requirements for training and continuing education than Iowa.

- (3) A nonrefundable fee of \$72.

c. Registration expires two years after it is issued.

26.5(2) Renewal registration.

a. Registered testers may renew 60 days prior to registration expiration and include:

- (1) A completed registration renewal application form provided by the department.
- (2) Documentation that the registered tester has completed at least five hours of approved continuing education courses during the registration period or documentation that the registered tester is certified.

- (3) A nonrefundable fee of \$72.

Registration renewal applications received after expiration will incur a \$10 penalty per month, to a maximum \$50 penalty.

b. If a registration has lapsed greater than 24 months, the person applying for renewal shall demonstrate that one of the following is true:

(1) The person has successfully completed an approved training course within the 12 months before applying for registration renewal, or

(2) The person is certified, or

(3) The person is registered as a backflow prevention assembly tester in a jurisdiction that has similar or greater requirements for training and continuing education than does the state of Iowa.

[ARC 7833C, IAB 4/17/24, effective 5/22/24]

641—26.6(135K) Standards of conduct.

26.6(1) A registered tester shall comply with these rules and any ordinances, rules and policies of the administrative authority in jurisdictions where the registered tester tests or repairs a backflow prevention assembly.

26.6(2) A registered tester shall maintain a record for each backflow prevention assembly tested for at least five years after the date on which the assembly was tested. Registered testers will complete an administrative authority's test report form if required by ordinance. Records may be reviewed during normal business hours by an authorized representative of the department or administrative authority of the jurisdiction in which the assembly is located. The assembly record will include at least:

a. The name, address and telephone number of the assembly owner.

b. The location of the facility in which the assembly is located.

c. The location of the assembly within the facility.

d. The type, brand, model, size, and serial number of the assembly.

e. The date and time of the test.

f. Results of the test.

g. Any assembly repairs or maintenance.

26.6(3) To field test a backflow prevention assembly, a registered tester shall use a differential pressure gauge, the accuracy of which is verified no less than every 13 months with results traceable to the National Institute of Standards and Technology (NIST). Any differential pressure gauge with an error of more than plus or minus 0.2 psi cannot be used to test a backflow prevention assembly. Methods of testing that use other types of equipment, including dual pressure gauges, water columns, or single pressure gauges, are not acceptable. For every test report record retained in accordance with subrule 26.6(2), the prior most recent accuracy verification for the differential pressure gauge shall be retained and made available to an authorized representative of the department or administrative authority of the jurisdiction in which the assembly is located.

[ARC 7833C, IAB 4/17/24, effective 5/22/24]

641—26.7(135K) Penalty. In addition to other sanctions provided herein, a person who violates a provision of this chapter is guilty of a simple misdemeanor pursuant to Iowa Code section 135K.5.

[ARC 7833C, IAB 4/17/24, effective 5/22/24]

641—26.8(135K) Denial, probation, suspension or revocation.

26.8(1) *Denial, probation, suspension or revocation of registration.* The department may deny an application for registration or renewal, place a registration on probation, suspend or revoke a registration, or order a registered tester not to test or repair backflow prevention assemblies when the department finds that the applicant or registered tester has committed any of the following acts:

a. Negligence or incompetence in the testing of a backflow prevention assembly, including failure to report improper application or installation of a backflow prevention assembly to the facility owner and the administrative authority.

b. Knowingly submitting a false report of a test of a backflow prevention assembly to the owner of the facility, the local administrative authority, or the department.

c. Fraud in obtaining registration or renewal including, but not limited to:

- (1) Intentionally submitting false information on an application for registration or renewal;
 - (2) Submitting a false or forged certificate or other record of training or certification.
- d.* Falsification of the assembly records set forth in subrule 26.6(2).
 - e.* Failure to comply with these rules or the ordinances of an administrative authority in whose jurisdiction the registered tester tests a backflow prevention assembly.
 - f.* Failure to pay registration, renewal or late fees.
 - g.* Habitual intoxication or addiction to drugs.
 - h.* Violating a statute of this state or another jurisdiction relating to backflow prevention assembly testing, including but not limited to crimes involving dishonesty, fraud, theft, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
 - i.* Suspension, revocation, or other disciplinary action pertaining to backflow prevention assembly testing in another jurisdiction. A copy of the record or order of suspension, revocation or disciplinary action is conclusive evidence.
 - j.* Knowingly making misleading, deceptive, untrue, or fraudulent representations regarding the testing of backflow prevention assemblies, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts that may constitute unethical conduct include:
 - (1) Verbally or physically abusing a client or coworker.
 - (2) Improper sexual contact with, sexual harassment of, or improper sexual advances upon a client or coworker. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
 - k.* Failing to cooperate with an investigation or engaging in conduct attempting to subvert an investigation.
 - l.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
 - m.* Knowingly aiding, assisting or advising a person to unlawfully practice as a backflow prevention assembly tester.
 - n.* Representing oneself as a registered backflow prevention assembly tester when one's registration has been suspended, revoked, lapsed, or placed on inactive status.
 - o.* Acceptance of any fee by fraud or misrepresentation.
 - p.* Failure to appropriately respond to written communication from the department sent by registered or certified mail.
- 26.8(2) Denial or revocation of training course approval.** The department may deny or revoke the approval for a training course or a continuing education course when it finds:
- a.* The lead instructor for a training course is not qualified in accordance with paragraph 26.4(1) "f."
 - b.* The training course did not comply with paragraph 26.4(1) "e."
 - c.* The training course testing laboratory did not comply with paragraph 26.4(1) "g."
 - d.* The organization or person applying for approval of a training or continuing education course intentionally submitted false information to the department in support of such approval.
 - e.* The organization or person conducting or sponsoring training has falsified training or continuing education records, including issuance of a certificate or other record of training to a person who did not successfully complete a training course or who did not attend continuing education training.
 - f.* The organization or person responsible for a training or continuing education course has permitted physical or verbal abuse or sexual harassment of a student or instructor. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
 - g.* The organization or person responsible for training courses and continuing education courses consistently fails to notify the department of such courses in a timely fashion as set forth in paragraphs 26.4(1) "d" and 26.4(2) "a," or fails to pay its fees.
 - h.* Failure to comply with these rules.

26.8(3) *Denial or revocation of approval as a third-party certification agency.* The department may deny or revoke the approval for a third-party certification agency when it finds:

a. The application for approval contains material misinformation regarding the conduct and standards of the certification program or its acceptance in other jurisdictions.

b. Failure to adhere to the standards and procedures stated in the application for approval in the process of certifying or renewing the certification of testers.

c. Violations of paragraph 26.4(3) “*b*” or other failure to comply with these rules.

26.8(4) *Complaints.* Complaints regarding a registered tester, an approved training course, or a third-party certification agency may be sent to the department. The complainant should provide as much pertinent and specific information as to a potential violation as they are able to.

26.8(5) *Appeals.* Notice of denial, probation, suspension or revocation of registration; denial, probation or revocation of course approval; or denial, probation or revocation of third-party certification agency approval will be sent to the affected individual or organization by certified mail, return receipt requested, or by personal service. The affected individual or organization may appeal the denial, probation, suspension or revocation by requesting a contested case hearing within 20 days of receipt of the department’s order. The notice of denial, probation, suspension or revocation is deemed to be suspended during the appeal. Prior to or at the contested case hearing, the department may rescind the notice upon satisfaction that the reason for the denial, probation, suspension or revocation has been or will be removed. 481—Chapters 9 and 10 are applicable to contested case appeals.

[ARC 7833C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 135K.

[Filed 1/15/93, Notice 11/11/92—published 2/3/93, effective 3/10/93]

[Filed 3/14/03, Notice 2/5/03—published 4/2/03, effective 5/7/03]

[Filed ARC 8981B (Notice ARC 8761B, IAB 5/19/10), IAB 8/11/10, effective 9/15/10]

[Filed ARC 2837C (Notice ARC 2734C, IAB 9/28/16), IAB 12/7/16, effective 1/11/17]

[Filed ARC 7833C (Notice ARC 7284C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 46
MINIMUM REQUIREMENTS FOR TANNING FACILITIES

641—46.1(136D) Purpose and scope. This chapter provides for the permitting and regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes but is not limited to public and private businesses, hotels, motels, apartments, condominiums, and health and country clubs. Tanning facilities that follow these rules are not relieved from the requirements of any other federal and state regulations or local ordinances.

[ARC 7834C, IAB 4/17/24, effective 5/22/24]

641—46.2(136D) Definitions. The definitions set forth in Iowa Code section 136D.2 are incorporated herein by reference.

“Board of health” means a county, city, or district board of health that has a 28E agreement with the department to perform inspections under this chapter.

“Cleansing” means to remove soil, dirt, oils or other residues from the surface of the tanning unit which may come into contact with the skin.

“Cleansing agent” means a substance capable of producing the effect of “cleansing.” These agents shall not adversely affect the equipment or the health of the consumer and be acceptable to the department or board of health.

“Consumer” means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.

“Exposure position” means any position, distance, orientation, or location relative to the radiation surfaces of a tanning device at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer.

“Formal training” means a course of instruction approved by the department for operators of tanning facilities.

“Health care professional” means an individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy.

“Inspection” means an official examination or observation to determine compliance with statutes, rules, orders, or other applicable conditions.

“Manufacturer’s recommendations” means written guidelines established by a manufacturer and approved by the U.S. Food and Drug Administration for the installation and operation of the manufacturer’s equipment.

“Operator” means an individual designated to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning devices.

“Permit” or *“permit to operate”* means a document issued by the department that authorizes a person to operate a tanning facility in Iowa.

“Person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but does not include federal government agencies.

“Ultraviolet radiation” means electromagnetic radiation with wavelengths in air between 200 and 400 nanometers.

[ARC 7834C, IAB 4/17/24, effective 5/22/24]

641—46.3(136D) Exemptions. The department may, upon application or its own initiative, grant exemptions from these rules as long as it will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this chapter:

46.3(1) Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation that produce or emit ultraviolet radiation incidental to their proper operation.

46.3(2) Tanning devices that are limited exclusively to personal use by an individual and the individual's immediate family. Multiple ownership of the device by persons for personal use only does not qualify it for the "personal use only" exemption.

46.3(3) Phototherapy devices used by a properly trained health care professional in the treatment of disease.

[ARC 7834C, IAB 4/17/24, effective 5/22/24]

641—46.4(136D) Permits and fees.

46.4(1) *Permit to operate.* No tanning facility may operate without a permit issued by the department.

46.4(2) *Application requirements for permit.* Prior to operating a tanning facility, an individual shall:

a. Apply for a permit on forms provided by the department or board of health, along with a nonrefundable application fee of \$5. A \$15 returned check fee will be charged for each check returned for insufficient funds.

b. Notify the department in writing within 30 days of any changes, additions, or deletions to the initial or renewal application as appropriate. This does not include changes involving replacement of components in tanning equipment.

46.4(3) *Expiration of permit.* Except as provided in paragraph 46.4(4)"b," each permit expires at the end of the specified day stated therein.

46.4(4) *Renewal of permit.*

a. Permits will be renewed annually upon the department's receipt of a completed renewal application and the \$5 fee.

b. If the completed renewal is submitted prior to expiration of the existing permit, the existing permit does not expire until the application has been finally determined by the department.

c. In addition to any annual fee not paid, tanning facilities incur a \$25 per month fee for failure to pay annual permit fees starting the month of expiration of the facility's permit.

46.4(5) *Transfer or termination of permit.* Permits are nontransferable and must be returned to the department or board of health upon cessation of operation or change of ownership.

46.4(6) *Denial, revocation, or termination of permit.*

a. The department may deny, suspend, or revoke a permit for any of the following reasons:

(1) Submission of false information to the department, including in a permit application;

(2) Operation of the tanning facility in a manner that causes or threatens hazard to the public health or safety;

(3) Failure to allow authorized representatives of the department or board of health to enter the tanning facility at reasonable times for the purpose of determining compliance with the provisions of this chapter, conditions of the permit, or an order of the department or board of health;

(4) Failure to pay fees in accordance with rule 641—46.4(136D); and

(5) Violation of any of the provisions of this chapter or Iowa Code chapter 136D.

b. Except in cases where public health and safety require otherwise, prior to the institution of proceedings for suspension or revocation of a permit, the department or board of health will notify the permit holder, in writing, of the facts or conduct warranting such action and provide an opportunity for the permit holder to demonstrate or achieve compliance.

c. Any person aggrieved by a decision by the department to deny, suspend, or revoke a permit may request a contested case hearing pursuant to 481—Chapter 9.

d. After suspension or revocation, a permit may be reinstated upon payment of a \$50 fee and completion of all other requirements. This fee is in addition to any other applicable fee.

46.4(7) *Inspections.*

a. Inspections will be conducted annually at the cost of the permit holder. The cost of an inspection is \$33 per tanning device, up to \$330 per facility maximum. Inspection costs are due upon receipt of notice by the facility. Facilities located within a contracted area of a board of health will be paid to the contracted board of health or its designee. Inspection costs not received within 45 days of the date

of billing will be assessed a \$25 per month penalty for each month or fraction thereof that payment is delinquent.

b. A penalty fee of \$25 per facility may be assessed for:

- (1) Failure to respond to a notice of violation within 30 days of the date of the inspection.
- (2) Failure to correct violations cited during the inspection.

c. Inspections include but are not limited to reviewing proper operation and maintenance of devices, necessary records and training documentation, and operator understanding and competency.
[ARC 7834C, IAB 4/17/24, effective 5/22/24]

641—46.5(136D) Construction and operation of tanning facilities. The following are minimum standards for the construction, operation, and maintenance of tanning facilities:

46.5(1) Warning signs. A tanning facility shall provide and post warning signs and statements as follows:

a. The warning sign must use minimum 0.5-inch (12.7-millimeter) letters for the statement “DANGER, ULTRAVIOLET RADIATION” and 0.25-inch (6.4-millimeter) letters for other lettering; use red lettering against a white background; be at least 9.0 inches by 12.0 inches (22.9 centimeters × 30.5 centimeters); and have the following wording:

DANGER

ULTRAVIOLET RADIATION

— Overexposure can cause

- Eye and skin injury
- Allergic reaction

— Repeated exposure may cause

- Premature aging of the skin
- Skin cancer

— Failure to wear protective eyewear may result in

- Severe burns to eyes
- Long-term injury to eyes

— Medication or cosmetics may increase your sensitivity

b. A warning sign as set forth in paragraph 46.5(1) “*a*” will be posted in a conspicuous location readily visible to consumers entering the facility and in a conspicuous location within one meter of the tanning device readily visible to a person preparing to use the device.

c. A tanning facility shall require each consumer to read the information in Appendices 1, 2, and 3 prior to the consumer’s initial exposure and annually thereafter. The consumer must sign a statement that the information has been read and understood. The information in Appendices 1, 2, and 3 must also be posted in each tanning room.

46.5(2) Federal certification. Only tanning devices manufactured and certified under the provisions of 21 CFR section 1040.20 may be used in tanning facilities. Compliance is based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR sections 1010.2 and 1010.3. Labeling shall be in accordance with 21 CFR section 1040.20(d).

46.5(3) Tanning device timers. Each tanning device shall have a timer that complies with 21 CFR section 1040.20(c). Each tanning device must have a method of remote timing so consumers cannot control their own exposure time. Tokens for token timers shall not be issued to any consumer in quantities greater than the device manufacturer’s maximum recommended exposure time for the consumer.

46.5(4) Temperature limits. The operator shall ensure that the facility’s interior temperature does not exceed 100 degrees F or 38 degrees C.

46.5(5) Condition of tanning devices. The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements, and include physical barriers to protect consumers from injury induced by falling against or breaking the lamps.

46.5(6) *Stand-up booths.* Additionally, stand-up booths shall be constructed:

- a. Utilizing physical barriers (e.g., handrails) or other means (floor markings) to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.
- b. To withstand the stress of use and the impact of a falling person.
- c. Utilizing rigid construction, with doors that open outwardly, and with handrails and nonslip floors.

46.5(7) *Protective eyewear.*

- a. Eyewear shall not be reused by another consumer.
- b. Protective eyewear shall meet the criteria of 21 CFR section 1040.20(c)(4).
- c. Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (e.g., removal of straps).
- d. A tanning facility operator shall verify that a consumer has protective eyewear in accordance with this subrule and not allow a consumer to use a tanning device if that consumer does not use the protective eyewear. The operator should:
 - (1) Ask to see the eyewear before the consumer enters the tanning room; or
 - (2) Provide disposable eyewear in the tanning room at all times and post a sign stating that the disposable eyewear is available and has to be worn.
- e. A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear.

46.5(8) *Operation.*

- a. A trained operator must be present when a tanning device is operated and within hearing distance to allow the consumer to easily summon help if necessary. If the operator is not in the immediate vicinity during use, the consumer must be able to summon help through use of an audible device such as an intercom or buzzer and the operator or emergency personnel must be able to reach the consumer within a reasonable amount of time after being summoned.
- b. The facility's permit will be displayed pursuant to Iowa Code section 136D.6.
- c. A record of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of the exposure, and any injuries or illness resulting from the use of a tanning device must be maintained.
- d. Any tanning injury not requiring a physician's care and any resulting changes in tanning sessions shall be noted in the consumer's file. A written report of any tanning injury requiring a physician's care shall be provided to the department within five working days of its occurrence or operator's notice thereof. The report will include:
 - (1) The name of the affected individual;
 - (2) The name and location of the tanning facility involved;
 - (3) The nature of the injury;
 - (4) The name and address of the health care provider treating the affected individual, if any; and
 - (5) Any other information considered relevant to the situation.
- e. Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label on the tanning device or with lamps or filters that are "equivalent" under 21 CFR Section 1040.20, and policies applicable at the time of lamp manufacture.
- f. Ultraviolet lamps and bulbs that are not otherwise defective or damaged will be replaced at such frequency or after such duration of use as is recommended by the manufacturer.
- g. Contact surfaces of tanning devices shall be:
 - (1) Cleansed by the operator with a cleansing agent between each use;
 - (2) Covered by a nonreusable protective material during each use; or
 - (3) Cleansed by the consumer after use, provided the following conditions are met:
 1. The operator instructs the consumer annually on how to properly cleanse the unit;
 2. The consumer annually signs a statement that the consumer agrees to cleanse the unit after each use;
 3. Signs are posted in each tanning room reminding the consumer to cleanse the tanning unit after each use and instructing the proper way to cleanse the unit; and

4. The operator cleanses the tanning unit at least once a day.
- h.* Records or documentation required by this chapter must be maintained in the tanning facility for a minimum of two years. If maintained electronically, such records must be retrievable as a printed copy.
- i.* The operator shall limit a consumer's exposure to the maximum exposure frequency and session duration recommended by the manufacturer.
- j.* When a tanning device is being used, no other person can be allowed in the tanning device area.
- k.* "Unlimited" tanning packages cannot be advertised or promoted unless tanning frequency limits set by the manufacturer are included therein.

46.5(9) *Training of operators.*

- a.* All operators must satisfactorily complete a training program approved by the department prior to operating a tanning device that includes:
 - (1) Education on this chapter;
 - (2) Procedures for correct operation of the tanning facility and tanning devices;
 - (3) The determination of skin type of consumers and appropriate duration of exposure to tanning devices;
 - (4) Recognition of reaction or overexposure;
 - (5) Manufacturer's procedures for operation and maintenance of tanning devices; and
 - (6) Competency testing.
- b.* Owners and managers must complete formal training approved by the department. All owners and managers must satisfactorily pass a certification examination approved by the department before operating a tanning facility or training employees.
- c.* Owners and managers are responsible to train operators in the above topics and to provide review as necessary. Operators will be questioned during inspections as to the level of their understanding and competency in operating the tanning device.
- d.* Proof of training for owner/managers and employees must be maintained in the tanning facility and available for inspection. The employee record should be the original test signed by the employee, the date, and a statement signifying that all answers have been completed by the employee and without prior knowledge of the scoring key.
- e.* Operators shall be at least 16 years of age.
- f.* Training and testing will be completed every five years.

46.5(10) *Promotional materials.* A tanning facility shall not claim, or distribute materials claiming, that tanning devices are safe, that tanning devices are free from risk, or that use of the device will result in medical or health benefits. The only claim that may be made is that the device is for cosmetic use only.

46.5(11) *Electronically controlled facilities.* Electronically controlled facilities are facilities that rely on electronic means to monitor consumers.

- a.* Entry into the facility is allowed by card only. Only one individual may enter under each card. The card is specifically activated for tanning use if the facility offers other activities and tanning will not activate if the card is not programmed for tanning. The card will not activate if two individuals are in the tanning room.
- b.* Police and all emergency services will have access to the facility through a key box located outside the entrance of the facility.
- c.* The consumer must sign a tanning agreement stating the number of minutes per session, that the consumer agrees to wear protective eyewear, that the consumer will cleanse the unit after tanning, and that the consumer is aware of the emergency access in each room.
- d.* The card will be programmed for the number of minutes the consumer is allowed to tan and may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the tanning agreement. The card will be deactivated after 30 consecutive days without consumer access such that the consumer will then reapply to access the tanning unit.
- e.* The operator will demonstrate to each consumer how to properly cleanse the unit after tanning, including the top, bottom, and handles. A sign will be placed in each room explaining the cleansing process. The operator will cleanse the units at least once per day when they are in use.

f. Free disposable eyewear will be placed in each room along with a sign stating that the disposable eyewear is available and must be worn.

g. An emergency call button or device that calls the operator or emergency personnel will be placed in each tanning room conveniently located within reach of the tanning bed.

h. During annual inspections, the inspector may ask any consumer about any of the above processes.

[ARC 7834C, IAB 4/17/24, effective 5/22/24]

641—46.6(136D) Inspections, violations and injunctions.

46.6(1) Access. The director or an authorized agent has access to any tanning facility as authorized by Iowa Code section 136D.8.

46.6(2) Civil penalty and enforcement. The department may take legal action as provided in Iowa Code sections 136D.8(3) and 136D.9.

a. The department will take the following steps or use county ordinances or any other applicable ordinances, resolutions, rules or regulations when enforcement of these rules is necessary.

(1) Cite each section of the Iowa Code or rules violated and any civil penalty imposed.

(2) Specify the manner in which the owner or operator failed to comply.

(3) Specify the steps required for correcting the violation.

(4) Request a corrective action plan, including a time schedule for completion of the plan.

(5) Set a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the permit holder must respond with the corrective action plan and, if applicable, any reasons why the civil penalty should not be imposed or to request a contested case hearing pursuant to 481—Chapter 9.

b. The department will review the corrective action plan and approve it or require that it be modified.

[ARC 7834C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 136D.

Appendix 1
POTENTIAL PHOTSENSITIZING AGENTS

1. Not all individuals who use or take these agents will experience a photosensitive reaction or the same degree of photosensitive reaction. An individual who experiences a reaction on one occasion will not necessarily experience it again or every time.

2. Names of agents should be considered only as examples. They do not represent all the names under which a product may be sold. A more complete list is available from the facility operator.

3. If you are using an agent in any of these classes, you should reduce UV exposure even if your particular medication is not listed.

Acne treatment (Retinoic acid, Retin-A) Psoralens (5-Methoxypsoralen, 8-Methoxypsoralen, 4,5,8-trimethyl-psoralen)

Antibacterials (deodorant bar soaps, antiseptics, cosmetics, halogenated carbanilides, halogenated phenols, halogenated salicylanilides, bithionol, chlorhexidine, hexachlorophene)

Antibiotics, anti-infectives (Tetracyclines)

Anticonvulsants (carbamazepine, trimethadione, promethazine)

Antidepressants (amitriptyline, Desipramine, Imipramine, Nortriptyline, Protriptyline), Tranquilizers, anti-emetics (Phenothiazines)

Antidiabetics (glucose-lowering agents) (sulfonylureas, oral antidiabetics, hypoglycemics)

Antihistamines (diphenhydramine, promethazine, triprolidine, chlorpheniramine)

Anti-inflammatory (Piroxicam), Non-steroidal anti-inflammatory drugs (Ibuprofen, Naproxen, Piroxicam)

Antimicrobials (griseofulvin), Sulfonamides ("Sulfa drugs," antimicrobials, anti-infectives)

Atropine-like drugs (anticholinergics, antiparkinsonism drugs, antispasmodics, synthetic muscle relaxants)

Coal tar and derivatives (Denorex, Tegrin, petroleum products used for psoriasis and chronic eczema and in shampoos)

Contraceptives, oral and estrogens (birth control pills, estrogens, progesterones)

Dyes (used in cosmetic ingredients, acridine, anthracene, cosin (lipstick), erythrosine, fluorescein, methyl violet, methylene blue, rose bengal)

Perfumes and toilet articles (musk ambrette, oil of bergamot, oil of cedar, oil of citron, oil of lavender, oil of lemon, oil of lime, oil of rosemary, oil of sandalwood)

Thiazide diuretics ("water pills")

Appendix 2

SUN-REACTIVE SKIN TYPES USED IN CLINICAL PRACTICE

SKIN TYPE	SKIN REACTIONS TO SOLAR RADIATION ^(a) EXAMPLES	EXAMPLES
I	Always burns easily and severely (painful burn). Tans little or none and peels.	People most often with fair skin, blue eyes, freckles. Unexposed skin is white.
II	Usually burns easily and severely (painful burn). Tans minimally or lightly, also peels.	People most often with fair skin; red or blonde hair; blue, hazel or even brown eyes. Unexposed skin is white.
III	Burns moderately and tans about average.	Normal average Caucasoid. Unexposed skin is white.
IV	Burns minimally, tans easily, and above average with each exposure. Exhibits IPD (immediate pigment darkening) reaction.	People with white or light brown skin, dark skin, dark brown hair, dark eyes. Unexposed skin is brown.
V	Rarely burns, tans easily and substantially. Always exhibits IPD reaction.	Unexposed skin is brown.
VI	Never burns and tans profusely; exhibits IPD reaction.	Unexposed skin is black.

(a) Based in the first 45-60 minutes (= 2-3 minimum erythema dose) exposure of the summer sun (early June) at sea level

Appendix 3
 POTENTIAL NEGATIVE HEALTH EFFECTS
 RELATED TO ULTRAVIOLET EXPOSURE

1. Increased risk of skin cancer later in life.
2. Increased risk of skin thickening, age spots, irregular pigmentation, and premature aging.
3. Possibility of burning or rash, especially if using any of the potential photosensitizing drugs and agents. The consumer should consult a physician before using a tanning device if using medications, if there is a history of skin problems or if the consumer is especially sensitive to sunlight.
4. Increased risk of eye damage unless proper eyewear is worn. Iowa law requires the use of proper eyewear during tanning sessions.

TANNING SYSTEMS

1. Low-pressure tanning systems use a higher percentage of UVB rays that penetrate only the upper layer of skin and can cause burning more easily than high-pressure tanning systems. Low-pressure systems require more frequent sessions to maintain a tan. High-intensity tanning systems use more lamps and shorter tanning sessions than low-intensity tanning systems. These are still classified as low-pressure systems.
2. High-pressure tanning systems use a higher percentage of UVA rays that penetrate more deeply and can permanently damage the lower layers of skin and increase the incidences of skin cancers. High-pressure systems require fewer and less frequent sessions to maintain a tan.
3. The exposure schedule for each specific unit is shown on the labeling on the tanning unit. Iowa law requires the operator to limit the exposure of each consumer to the exposure schedule shown on the unit in which the consumer is tanning.

These rules are intended to implement Iowa Code chapter 136D.

[Filed 1/14/91, Notice 10/17/90—published 2/6/91, effective 3/13/91]

[Filed 9/14/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]

[Filed 1/11/96, Notice 10/11/95—published 1/31/96, effective 3/6/96]

[Filed 9/16/96, Notice 7/17/96—published 10/9/96, effective 11/16/96]

[Filed 2/26/98, Notice 9/10/97—published 3/25/98, effective 4/29/98]

[Filed 4/2/99, Notice 1/13/99—published 4/21/99, effective 7/1/99]

[Filed 3/15/00, Notice 1/26/00—published 4/5/00, effective 5/10/00]

[Filed 3/16/01, Notice 2/7/01—published 4/4/01, effective 5/9/01]

[Filed 3/14/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

[Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]

[Filed 3/11/05, Notice 2/2/05—published 3/30/05, effective 5/4/05]

[Filed 3/9/06, Notice 2/1/06—published 3/29/06, effective 5/3/06]

[Filed 3/16/07, Notice 1/31/07—published 4/11/07, effective 5/16/07]

[Filed 7/13/07, Notice 6/6/07—published 8/1/07, effective 9/5/07]

[Filed 5/14/08, Notice 4/9/08—published 6/4/08, effective 7/9/08]

[Filed ARC 7834C (Notice ARC 7282C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

CHAPTERS 1 to 3

Reserved

CHAPTER 4

BOARD ADMINISTRATIVE PROCESSES

- 4.1(17A) Definitions
- 4.2(17A) Purpose of board
- 4.3(17A,147,272C) Organization of board and proceedings
- 4.4(17A) Official communications
- 4.5(17A) Office hours
- 4.6(21) Public meetings
- 4.7(147) Licensure by reciprocal agreement
- 4.8(147) Duplicate certificate
- 4.9(147) Reissued certificate
- 4.10(17A,147,272C) License denial
- 4.11(272C) Audit of continuing education
- 4.12(272C,83GA,SF2325) Automatic exemption
- 4.13(272C) Grounds for disciplinary action
- 4.14(272C) Continuing education exemption for disability or illness
- 4.15(147,272C) Order for physical, mental, or clinical competency examination or alcohol or drug screening
- 4.16(252J,272D) Noncompliance rules regarding child support and nonpayment of state debt

CHAPTER 5

FEEES

- 5.1(147,152D) Athletic training license fees
- 5.2(147,158) Barbering license fees
- 5.3(147,154D) Behavioral science license fees
- 5.4(151) Chiropractic license fees
- 5.5(147,157) Cosmetology arts and sciences license fees
- 5.6(147,152A) Dietetics license fees
- 5.7(147,154A) Hearing aid specialists license fees
- 5.8(147) Massage therapy license fees
- 5.9(147,156) Mortuary science license fees
- 5.10(147,155) Nursing home administrators license fees
- 5.11(147,148B) Occupational therapy license fees
- 5.12(147,154) Optometry license fees
- 5.13(147,148A) Physical therapy license fees
- 5.14(148C) Physician assistants license fees
- 5.15(147,148F,149) Podiatry license fees
- 5.16(147,154B) Psychology license fees
- 5.17(147,152B) Respiratory care license fees
- 5.18(147,154E) Sign language interpreters and transliterators license fees
- 5.19(147,154C) Social work license fees
- 5.20(147) Speech pathology and audiology license fees

CHAPTER 6
PETITIONS FOR RULE MAKING

- 6.1(17A) Petition for rule making
6.2(17A) Inquiries

CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING

- 7.1(17A) Adoption by reference

CHAPTER 8
DECLARATORY ORDERS
(Uniform Rules)

- 8.1(17A) Petition for declaratory order
8.2(17A) Notice of petition
8.3(17A) Intervention
8.5(17A) Inquiries

CHAPTER 9
COMPLAINTS AND INVESTIGATIONS

- 9.1(272C) Complaints
9.2(272C) Report of malpractice claims or actions or disciplinary actions
9.3(272C) Report of acts or omissions
9.4(272C) Investigation of complaints or reports
9.5(17A,272C) Issuance of investigatory subpoenas
9.6(272C) Peer review committees
9.7(17A) Appearance

CHAPTER 10
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

- 10.1(17A,22) Definitions
10.3(17A,22) Requests for access to records
10.5(17A,22) Request for treatment of a record as a confidential record and its withholding
from examination
10.6(17A,22) Procedures by which additions, dissents, or objections may be entered into certain
records
10.9(17A,22) Disclosures without the consent of the subject
10.10(17A,22) Routine use
10.11(17A,22) Consensual disclosure of confidential records
10.12(17A,22) Release to subject
10.13(17A,22) Availability of records
10.14(17A,22) Personally identifiable information
10.15(22) Other groups of records routinely available for public inspection
10.16(17A,22) Applicability

CHAPTER 11
CONTESTED CASES

- 11.1(17A) Scope and applicability
11.2(17A) Definitions
11.3(17A) Time requirements
11.4(17A) Probable cause
11.5(17A) Legal review
11.6(17A) Statement of charges and notice of hearing
11.7(17A,272C) Legal representation

11.8(17A,272C)	Presiding officer in a disciplinary contested case
11.9(17A)	Presiding officer in a nondisciplinary contested case
11.10(17A)	Disqualification
11.11(17A)	Consolidation—severance
11.12(17A)	Answer
11.13(17A)	Service and filing
11.14(17A)	Discovery
11.15(17A,272C)	Issuance of subpoenas in a contested case
11.16(17A)	Motions
11.17(17A)	Prehearing conferences
11.18(17A)	Continuances
11.19(17A,272C)	Hearing procedures
11.20(17A)	Evidence
11.21(17A)	Default
11.22(17A)	Ex parte communication
11.23(17A)	Recording costs
11.24(17A)	Interlocutory appeals
11.25(17A)	Applications for rehearing
11.26(17A)	Stays of agency actions
11.27(17A)	No factual dispute contested cases
11.28(17A)	Emergency adjudicative proceedings
11.29(17A)	Appeal
11.30(272C)	Publication of decisions
11.31(272C)	Reinstatement
11.32(17A,272C)	License denial

CHAPTER 12 INFORMAL SETTLEMENT

12.1(17A,272C)	Informal settlement
----------------	---------------------

CHAPTER 13 DISCIPLINE

13.1(272C)	Method of discipline
13.2(272C)	Discretion of board
13.3(272C)	Conduct of persons attending meetings

CHAPTER 14 USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

14.1(272C)	Definitions
14.2(272C)	License application
14.3(272C)	Eligibility determination
14.4(272C)	Appeal
14.5(272C)	Future petitions or applications

CHAPTER 15 Reserved

CHAPTER 16 IMPAIRED PRACTITIONER REVIEW COMMITTEE

16.1(272C)	Definitions
16.2(272C)	Purpose
16.3(272C)	Composition of the committee

16.4(272C)	Organization of the committee
16.5(272)	Eligibility
16.6(272C)	Meetings
16.7(272C)	Terms of participation
16.8(272C)	Noncompliance
16.9(272C)	Practice restrictions
16.10(272C)	Limitations
16.11(272C)	Confidentiality

CHAPTER 17

MATERIALS FOR BOARD REVIEW

17.1(147)	Materials for board review
-----------	----------------------------

CHAPTER 18

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

18.1(17A,147,272C)	Definitions
18.2(17A,147,272C)	Scope of chapter
18.3(17A,147,272C)	Applicability of chapter
18.4(17A,147,272C)	Criteria for waiver or variance
18.5(17A,147,272C)	Filing of petition
18.6(17A,147,272C)	Content of petition
18.7(17A,147,272C)	Additional information
18.8(17A,147,272C)	Notice
18.9(17A,147,272C)	Hearing procedures
18.10(17A,147,272C)	Ruling
18.11(17A,147,272C)	Public availability
18.12(17A,147,272C)	Summary reports
18.13(17A,147,272C)	Cancellation of a waiver
18.14(17A,147,272C)	Violations
18.15(17A,147,272C)	Defense
18.16(17A,147,272C)	Judicial review

CHAPTER 19

LICENSURE BY VERIFICATION AND OF APPLICANTS WITH WORK EXPERIENCE

19.1(272C)	Licensure by verification
19.2(272C)	Applicants with work experience in jurisdictions without licensure requirements

CHAPTER 20

MILITARY SERVICE AND VETERAN RECIPROCITY

20.1(272C)	Definitions
20.2(272C)	Military education, training, and service credit
20.3(272C)	Veteran reciprocity

BARBERS

CHAPTER 21

LICENSURE

21.1(158)	Definitions
21.2(158)	Requirements for licensure
21.3 and 21.4	Reserved
21.5(158)	Licensure by endorsement
21.6	Reserved
21.7(158)	Temporary permits to practice barbering
21.8(158)	Demonstrator's permit

21.9(158)	License renewal
21.10	Reserved
21.11(158)	Requirements for a barbershop license
21.12(158)	Barbershop license renewal
21.13 to 21.15	Reserved
21.16(17A,147,272C)	License reactivation
21.17(17A,147,272C)	Reactivation of a barbershop license
21.18(17A,147,272C)	License reinstatement
21.19(158)	Mobile barbershops

CHAPTER 22

INFECTION CONTROL FOR BARBERSHOPS AND BARBER SCHOOLS

22.1(158)	Definitions
22.2(158)	Infection control rules and inspection report
22.3(147)	Display requirements for barbershops
22.4(158)	Responsibilities of barbershop owner and supervisor
22.5(158)	Building standards
22.6(158)	Barbershops in residential buildings
22.7(158)	Barbershops adjacent to other businesses
22.8(142D,158)	Smoking
22.9(158)	Personal cleanliness
22.10(158)	Universal protocols
22.11(158)	Minimum equipment and supplies
22.12(158)	Disinfection and sterilizing instruments and equipment
22.13	Reserved
22.14(158)	Porous instruments and supplies that cannot be disinfected
22.15(158)	Semisolids, dusters, and styptics
22.16(158)	Blood exposure procedures
22.17(158)	Prohibited hazardous substances and use of products
22.18(158)	Proper protection of neck
22.19(158)	Proper laundering and storage
22.20(158)	Pets
22.21(158)	Records

CHAPTER 23

BARBER SCHOOLS

23.1(158)	Definitions
23.2(158)	Licensing for barber schools
23.3(158)	School license renewal
23.4(272C)	Inactive school license
23.5	Reserved
23.6(158)	Physical requirements for barber schools
23.7(158)	Minimum equipment requirements
23.8(158)	Course of study requirements
23.9(158)	Instructors
23.10(158)	Students
23.11(158)	Attendance requirements
23.12(158)	Graduate of a barber school
23.13(147)	Records requirements
23.14(158)	Public notice
23.15(158)	Apprenticeship
23.16(158)	Mentoring program

CHAPTER 24
CONTINUING EDUCATION FOR BARBERS

- 24.1(158) Definitions
24.2(158) Continuing education requirements
24.3(158,272C) Standards

CHAPTER 25
DISCIPLINE FOR BARBERS, BARBER INSTRUCTORS,
BARBERSHOPS AND BARBER SCHOOLS

- 25.1(158) Definitions
25.2(272C) Grounds for discipline
25.3(158,272C) Method of discipline
25.4(272C) Discretion of board

CHAPTERS 26 to 30
Reserved

BEHAVIORAL SCIENTISTS

CHAPTER 31
LICENSURE OF MARITAL AND FAMILY THERAPISTS,
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR
ANALYSTS

- 31.1(154D) Definitions
31.2(154D) Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist
31.3(154D) Examination requirements for mental health counselors and marital and family therapists
31.4(154D) Educational qualifications for marital and family therapists
31.5 Reserved
31.6(154D) Educational qualifications for mental health counselors
31.7(154D) Supervised clinical experience
31.8(154D) Licensure by endorsement for mental health counselors and marital and family therapists
31.9(147) Licensure of behavior analysts and assistant behavior analysts
31.10(147) License renewal for mental health counselors and marriage and family therapists
31.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts
31.12(147) Licensee record keeping
31.13 to 31.15 Reserved
31.16(17A,147,272C) License reactivation for mental health counselors and marital and family therapists
31.17(17A,147,272C) License reinstatement
31.18(154D) Marital and family therapy and mental health counselor services subject to regulation
31.19(154D) Temporary licensees

CHAPTER 32
CONTINUING EDUCATION FOR MARITAL AND
FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

- 32.1(272C) Definitions
32.2(272C) Continuing education requirements
32.3(154D,272C) Standards

CHAPTER 33
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS,
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR
ANALYSTS

33.1(154D)	Definitions
33.2(154D,272C)	Grounds for discipline
33.3(147,272C)	Method of discipline
33.4(272C)	Discretion of board

CHAPTERS 34 to 40
Reserved

CHIROPRACTIC

CHAPTER 41
LICENSURE OF CHIROPRACTIC PHYSICIANS

41.1(151)	Definitions
41.2(151)	Requirements for licensure
41.3(151)	Examination requirements
41.4(151)	Educational qualifications
41.5(151)	Temporary certificate
41.6(151)	Licensure by endorsement
41.7	Reserved
41.8(151)	License renewal
41.9 to 41.13	Reserved
41.14(17A,147,272C)	License reactivation
41.15(17A,147,272C)	License reinstatement

CHAPTER 42
COLLEGES FOR CHIROPRACTIC PHYSICIANS

42.1(151)	Definitions
42.2(151)	Board-approved chiropractic colleges
42.3(151)	Practice by chiropractic interns and chiropractic residents
42.4(151)	Approved chiropractic preceptorship program
42.5(151)	Approved chiropractic physician preceptors
42.6(151)	Termination of preceptorship

CHAPTER 43
PRACTICE OF CHIROPRACTIC PHYSICIANS

43.1(151)	Definitions
43.2(147,272C)	Principles of chiropractic ethics
43.3(151,514F)	Utilization and cost control review
43.4(151)	Chiropractic insurance consultant
43.5(151)	Acupuncture
43.6	Reserved
43.7(151)	Adjunctive procedures
43.8(151)	Physical examination
43.9(151)	Gonad shielding
43.10(151)	Record keeping
43.11(151)	Billing procedures
43.12(151)	Chiropractic assistants

CHAPTER 44
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS

- 44.1(151) Definitions
- 44.2(272C) Continuing education requirements
- 44.3(151,272C) Standards

CHAPTER 45
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

- 45.1(151) Definitions
- 45.2(151,272C) Grounds for discipline
- 45.3(147,272C) Method of discipline
- 45.4(272C) Discretion of board

CHAPTERS 46 to 59
Reserved

COSMETOLOGISTS

CHAPTER 60
LICENSURE OF COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS,
MANICURISTS, NAIL TECHNOLOGISTS, AND INSTRUCTORS
OF COSMETOLOGY ARTS AND SCIENCES

- 60.1(157) Definitions
- 60.2(157) Requirements for licensure
- 60.3(157) Criteria for licensure in specific practice disciplines
- 60.4(157) Practice-specific training requirements
- 60.5(157) Licensure restrictions relating to practice
- 60.6(157) Consent form requirements
- 60.7(157) Licensure by endorsement
- 60.8(157) License renewal
- 60.9 to 60.16 Reserved
- 60.17(17A,147,272C) License reactivation
- 60.18(17A,147,272C) License reinstatement

CHAPTER 61
LICENSURE OF SALONS AND SCHOOLS
OF COSMETOLOGY ARTS AND SCIENCES

- 61.1(157) Definitions
- 61.2(157) Salon licensing
- 61.3(157) Salon license renewal
- 61.4(272C) Inactive salon license
- 61.5(157) Display requirements for salons
- 61.6(147) Duplicate certificate for salons
- 61.7(157) Licensure for schools of cosmetology arts and sciences
- 61.8(157) School license renewal
- 61.9(272C) Inactive school license
- 61.10(157) Display requirements for schools
- 61.11 Reserved
- 61.12(157) Physical requirements for schools of cosmetology arts and sciences
- 61.13(157) Minimum equipment requirements
- 61.14(157) Course of study requirements
- 61.15(157) Instructors
- 61.16(157) Student instructors
- 61.17(157) Students

61.18(157)	Attendance requirements
61.19(157)	Accelerated learning
61.20(157)	Mentoring program
61.21(157)	Graduate of a school of cosmetology arts and sciences
61.22(157)	Records requirements
61.23(157)	Classrooms used for other educational purposes
61.24(157)	Public notice

CHAPTER 62

Reserved

CHAPTER 63

INFECTION CONTROL FOR SALONS AND SCHOOLS OF COSMETOLOGY ARTS AND SCIENCES

63.1(157)	Definitions
63.2(157)	Infection control rules and inspection report
63.3(157)	Responsibilities of salon owners
63.4(157)	Responsibilities of licensees
63.5(157)	Joint responsibility
63.6(157)	Building standards
63.7(157)	Salons in residential buildings
63.8(157)	Salons adjacent to other businesses
63.9(157)	Smoking
63.10(157)	Personal cleanliness
63.11(157)	Universal precautions
63.12(157)	Blood exposure procedures
63.13(157)	Disinfecting and sterilizing instruments and equipment
63.14(157)	Porous instruments and supplies that cannot be disinfected
63.15	Reserved
63.16(157)	Infection control methods for creams, cosmetics and applicators
63.17	Reserved
63.18(157)	Prohibited hazardous substances and use of products and equipment
63.19(157)	Proper protection of neck
63.20(157)	Proper laundering and storage
63.21(157)	Pets
63.22(157)	General maintenance
63.23(157)	Records
63.24(157)	Salons and schools providing electrology or esthetics
63.25(157)	Cleaning and disinfecting circulating and noncirculating tubs, bowls, and spas
63.26(157)	Paraffin wax

CHAPTER 64

CONTINUING EDUCATION FOR COSMETOLOGY ARTS AND SCIENCES

64.1(157)	Definitions
64.2(157)	Continuing education requirements
64.3(157,272C)	Standards

CHAPTER 65

DISCIPLINE FOR COSMETOLOGY ARTS AND SCIENCES LICENSEES, INSTRUCTORS, SALONS, AND SCHOOLS

65.1(157,272C)	Definitions
65.2(157,272C)	Grounds for discipline
65.3(157,272C)	Method of discipline

- 65.4(272C) Discretion of board
 65.5(157) Civil penalties against nonlicensees

CHAPTERS 66 to 80

Reserved

DIETITIANS

CHAPTER 81

LICENSURE OF DIETITIANS

- 81.1(152A) Definitions
 81.2(152A) Nutrition care
 81.3 Reserved
 81.4(152A) Requirements for licensure
 81.5(152A) Educational qualifications
 81.6(152A) Supervised experience
 81.7(152A) Licensure by endorsement
 81.8 Reserved
 81.9(152A) License renewal
 81.10 to 81.14 Reserved
 81.15(17A,147,272C) License reactivation
 81.16(17A,147,272C) License reinstatement
 81.17(152A,272C) Telehealth visits

CHAPTER 82

CONTINUING EDUCATION FOR DIETITIANS

- 82.1(152A) Definitions
 82.2(152A) Continuing education requirements
 82.3(152A,272C) Standards

CHAPTER 83

DISCIPLINE FOR DIETITIANS

- 83.1(152A) Definitions
 83.2(152A,272C) Grounds for discipline
 83.3(152A,272C) Method of discipline
 83.4(272C) Discretion of board

CHAPTERS 84 to 99

Reserved

FUNERAL DIRECTORS

CHAPTER 100

PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS

- 100.1(156) Definitions
 100.2(156) Funeral director duties
 100.3(156) Permanent identification tag
 100.4(142,156) Removal and transfer of human remains
 100.5(135,144) Burial transit permits
 100.6(156) Preparation and embalming activities
 100.7(156) Arranging and directing funeral and memorial ceremonies
 100.8(142,156) Unclaimed human remains for scientific use
 100.9(144) Disinterments

- 100.10(156) Cremation of human remains
- 100.11(156) Records to be retained by a funeral establishment

CHAPTER 101

LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS

- 101.1(156) Definitions
- 101.2(156) Requirements for licensure
- 101.3(147,156) Internship and preceptorship
- 101.4(156) Student practicum
- 101.5(156) Funeral establishment license or cremation establishment license
- 101.6(156) Renewal of funeral director license
- 101.7(272C) Renewal of a funeral establishment license or a cremation establishment license
- 101.8(272C) Inactive funeral establishment license or cremation establishment license
- 101.9(17A,147,272C) Reinstatement of a funeral establishment license or a cremation establishment license
- 101.10(17A,147,272C) License reactivation
- 101.11(17A,147,272C) Reinstatement of a funeral director license
- 101.12(156) Removal technician education and training requirements
- 101.13(156) Removal technician supervision and requirements

CHAPTER 102

CONTINUING EDUCATION FOR FUNERAL DIRECTORS

- 102.1(272C) Definitions
- 102.2(272C) Continuing education requirements
- 102.3(156,272C) Standards
- 102.4(272C) Automatic exemption

CHAPTER 103

Reserved

CHAPTER 104

DISCIPLINARY PROCEEDINGS

- 104.1(156) Definitions
- 104.2(17A,147,156,272C) Disciplinary authority
- 104.3(17A,147,156,272C) Grounds for discipline against funeral directors
- 104.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments
- 104.5(17A,147,156,272C) Method of discipline
- 104.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions
- 104.7 Reserved
- 104.8(17A,147,156,272C) Informal discussion

CHAPTER 105

ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

- 105.1(156) Civil penalties against nonlicensees
- 105.2(156) Unlawful practices
- 105.3(156) Investigations
- 105.4(156) Subpoenas
- 105.5(156) Notice of intent to impose civil penalties
- 105.6(156) Requests for hearings
- 105.7(156) Factors to consider
- 105.8(156) Enforcement options

CHAPTERS 106 to 120

Reserved

HEARING AID SPECIALISTS

CHAPTER 121

LICENSURE OF HEARING AID SPECIALISTS

- 121.1(154A) Definitions
- 121.2(154A) Temporary permits
- 121.3(154A) Supervision requirements
- 121.4(154A) Requirements for initial licensure
- 121.5(154A) Licensure by endorsement
- 121.6(154A) Display of license
- 121.7(154A) License renewal
- 121.8(17A,147,272C) License reactivation
- 121.9(17A,147,272C) License reinstatement

CHAPTER 122

CONTINUING EDUCATION FOR HEARING AID SPECIALISTS

- 122.1(154A) Definitions
- 122.2(154A) Continuing education requirements
- 122.3(154A,272C) Standards

CHAPTER 123

PRACTICE OF HEARING AID DISPENSING

- 123.1(154A) Definitions
- 123.2(154A) Requirements prior to sale of a hearing aid
- 123.3(154A) Requirements for sales receipt
- 123.4(154A) Requirements for recordkeeping
- 123.5(154A) Telehealth appointments

CHAPTER 124

DISCIPLINE FOR HEARING AID SPECIALISTS

- 124.1(154A,272C) Grounds for discipline

CHAPTERS 125 to 130

Reserved

MASSAGE THERAPISTS

CHAPTER 131

LICENSURE OF MASSAGE THERAPISTS

- 131.1(152C) Definitions
- 131.2(272C) Licensure by examination
- 131.3(152C) Educational qualifications for foreign-trained massage therapists
- 131.4(152C) Licensure by endorsement
- 131.5(152C) Licensure by verification
- 131.6(152C) Temporary license
- 131.7(152C) License display
- 131.8(152C) License renewal
- 131.9(17A,147,272C) License reactivation
- 131.10(17A,147,272C) License reinstatement

CHAPTER 132

MESSAGE THERAPY EDUCATION CURRICULUM

- 132.1(152C) Definitions
- 132.2(152C) Application for approval of massage therapy education curriculum
- 132.3(152C) Curriculum requirements
- 132.4(152C) Student clinical practicum standards
- 132.5(152C) School certificate or diploma
- 132.6(152C) School records retention
- 132.7(152C) Massage school curriculum compliance
- 132.8(152C) Denial or withdrawal of approval

CHAPTER 133

CONTINUING EDUCATION FOR MESSAGE THERAPISTS

- 133.1(152C) Definitions
- 133.2(152C) Continuing education requirements
- 133.3(152C,272C) Continuing education criteria

CHAPTER 134

DISCIPLINE FOR MESSAGE THERAPISTS

- 134.1(152C) Definitions
- 134.2(152C,272C) Grounds for discipline
- 134.3(147,272C) Method of discipline
- 134.4(272C) Discretion of board
- 134.5(152C) Civil penalties

CHAPTERS 135 to 140

Reserved

NURSING HOME ADMINISTRATORS

CHAPTER 141

LICENSURE OF NURSING HOME ADMINISTRATORS

- 141.1(155) Definitions
- 141.2(155) Requirements for licensure
- 141.3(147,155) Examination requirements
- 141.4(155) Educational qualifications
- 141.5(155) Practicum experience
- 141.6(155) Provisional license
- 141.7(155) Licensure by endorsement
- 141.8(147,155) Licensure by reciprocal agreement
- 141.9(147,155) License renewal
- 141.10 to 141.14 Reserved
- 141.15(17A,147,272C) License reactivation
- 141.16(17A,147,272C) License reinstatement

CHAPTER 142

Reserved

CHAPTER 143

CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION

- 143.1(272C) Definitions
- 143.2(272C) Continuing education requirements
- 143.3(155,272C) Standards
- 143.4(155,272C) Audit of continuing education report

- 143.5(155,272C) Automatic exemption
- 143.6(272C) Continuing education exemption for disability or illness
- 143.7(155,272C) Grounds for disciplinary action

CHAPTER 144

DISCIPLINE FOR NURSING HOME ADMINISTRATORS

- 144.1(155) Definitions
- 144.2(155,272C) Grounds for discipline
- 144.3(155,272C) Method of discipline
- 144.4(272C) Discretion of board
- 144.5(155) Order for mental, physical, or clinical competency examination or alcohol or drug screening

CHAPTERS 145 to 179

Reserved

OPTOMETRISTS

CHAPTER 180

LICENSURE OF OPTOMETRISTS

- 180.1(154) Definitions
- 180.2(154) Requirements for licensure
- 180.3(154) Licensure by endorsement
- 180.4 Reserved
- 180.5(154) License renewal
- 180.6 to 180.10 Reserved
- 180.11(17A,147,272C) License reactivation
- 180.12(17A,147,272C) License reinstatement

CHAPTER 181

CONTINUING EDUCATION FOR OPTOMETRISTS

- 181.1(154) Definitions
- 181.2(154) Continuing education requirements
- 181.3(154,272C) Standards

CHAPTER 182

PRACTICE OF OPTOMETRISTS

- 182.1(154) Code of ethics
- 182.2(154,272C) Record keeping
- 182.3(154) Furnishing prescriptions
- 182.4(155A) Prescription drug orders
- 182.5(154) Use of injectables
- 182.6(154) Education and training approval
- 182.7(154) Education and training

CHAPTER 183

DISCIPLINE FOR OPTOMETRISTS

- 183.1(154) Definitions
- 183.2(154,272C) Grounds for discipline
- 183.3(147,272C) Method of discipline
- 183.4(272C) Discretion of board

CHAPTERS 184 to 199

Reserved

PHYSICAL AND OCCUPATIONAL THERAPISTS

CHAPTER 200

LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

200.1(147)	Definitions
200.2(147)	Requirements for licensure
200.3(147)	Physical therapy compact
200.4(147)	Examination requirements for physical therapists and physical therapist assistants
200.5(147)	Educational qualifications
200.6(147)	Delegation by a supervising physical therapist
200.7(147)	Licensure by endorsement
200.8	Reserved
200.9(147)	License renewal
200.10 to 200.14	Reserved
200.15(17A,147,272C)	License reactivation
200.16(17A,147,272C)	License reinstatement

CHAPTER 201

PRACTICE OF PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS

201.1(148A,272C)	Code of ethics for physical therapists and physical therapist assistants
201.2(147)	Record keeping
201.3(147)	Telehealth visits

CHAPTER 202

DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

202.1(148A)	Definitions
202.2(272C)	Grounds for discipline
202.3(147,272C)	Method of discipline
202.4(272C)	Discretion of board

CHAPTER 203

CONTINUING EDUCATION FOR PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS

203.1(272C)	Definitions
203.2(148A)	Continuing education requirements
203.3(148A,272C)	Standards

CHAPTERS 204 and 205

Reserved

CHAPTER 206

LICENSURE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

206.1(147)	Definitions
206.2(147)	Requirements for licensure
206.3(147)	Limited permit to practice pending licensure
206.4	Reserved
206.5(147)	Practice of occupational therapy limited permit holders
206.6(147)	Examination requirements
206.7(147)	Educational qualifications
206.8(148B)	Supervision requirements
206.9(147)	Licensure by endorsement
206.10(147)	License renewal

- 206.11(17A,147,272C) License reactivation
- 206.12(17A,147,272C) License reinstatement

CHAPTER 207

CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

- 207.1(148B) Definitions
- 207.2(272C) Continuing education requirements
- 207.3(148B,272C) Standards

CHAPTER 208

PRACTICE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

- 208.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants
- 208.2(147) Record keeping
- 208.3(147) Telehealth visits

CHAPTER 209

DISCIPLINE FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

- 209.1(148B) Definitions
- 209.2(272C) Grounds for discipline
- 209.3(147,272C) Method of discipline
- 209.4(272C) Discretion of board

CHAPTERS 210 to 219

Reserved

PODIATRISTS

CHAPTER 220

LICENSURE OF PODIATRISTS

- 220.1(149) Definitions
- 220.2(149) Requirements for licensure
- 220.3(149) Written examinations
- 220.4(149) Educational qualifications
- 220.5(149) Title designations
- 220.6(147,149) Temporary license
- 220.7(149) Licensure by endorsement
- 220.8 Reserved
- 220.9(149) License renewal
- 220.10 to 220.14 Reserved
- 220.15(17A,147,272C) License reactivation
- 220.16(17A,147,272C) License reinstatement

CHAPTER 221

LICENSURE OF ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

- 221.1(148F) Definitions
- 221.2(148F) Transition period
- 221.3(148F) Requirements for licensure
- 221.4(148F) Written examinations
- 221.5(148F) Educational qualifications
- 221.6(148F) Licensure by endorsement
- 221.7(148F) License renewal

- 221.8(17A,147,272C) License reactivation
- 221.9(17A,147,272C) License reinstatement

CHAPTER 222

CONTINUING EDUCATION FOR PODIATRISTS

- 222.1(149,272C) Definitions
- 222.2(149,272C) Continuing education requirements
- 222.3(149,272C) Standards

CHAPTER 223

PRACTICE OF PODIATRY

- 223.1(149) Definitions
- 223.2(149) Requirements for administering conscious sedation
- 223.3(139A) Preventing HIV and HBV transmission
- 223.4(149) Unlicensed graduate of a podiatric college
- 223.5(149) Prescribing opioids

CHAPTER 224

DISCIPLINE FOR PODIATRISTS, ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

- 224.1(148F,149) Definitions
- 224.2(148F,149,272C) Grounds for discipline
- 224.3(147,272C) Method of discipline
- 224.4(272C) Discretion of board
- 224.5 Reserved
- 224.6(148F,149,272C) Indiscriminately prescribing, administering or dispensing any drug for other than a lawful purpose

CHAPTER 225

CONTINUING EDUCATION FOR ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

- 225.1(148F) Definitions
- 225.2(148F,272C) Continuing education requirements
- 225.3(148F,272C) Standards
- 225.4(148F,272C) Audit of continuing education report

CHAPTERS 226 to 239

Reserved

PSYCHOLOGISTS

CHAPTER 240

LICENSURE OF PSYCHOLOGISTS

- 240.1(154B) Definitions
- 240.2(154B) Requirements for initial psychology licensure
- 240.3(154B) Educational qualifications
- 240.4(154B) Examination requirements
- 240.5(154B) Postdoctoral residency
- 240.6(154B) Certified health service provider in psychology
- 240.7(154B) Requirements for provisional license
- 240.8(147) Licensure by endorsement
- 240.9(154B) Exemption to licensure
- 240.10(147) License renewal
- 240.11(147,272C) License reactivation
- 240.12(17A,147,272C) License reinstatement

- 240.13(154B,147) Title designations
- 240.14(154B) Psychologists' supervision of persons other than postdoctoral residents in a practice setting

CHAPTER 241

CONTINUING EDUCATION FOR PSYCHOLOGISTS

- 241.1(272C) Definitions
- 241.2(272C) Continuing education requirements
- 241.3(154B,272C) Standards

CHAPTER 242

DISCIPLINE FOR PSYCHOLOGISTS

- 242.1(147,272C) Grounds for discipline

CHAPTER 243

PRACTICE OF PSYCHOLOGY

- 243.1(154B) Definitions
- 243.2(147,154B,272C) Purpose and scope
- 243.3(154B) Access to records
- 243.4(154B) Psychological testing
- 243.5(154B) Judicial proceedings
- 243.6(154B) Telepsychology
- 243.7(154B) Records

CHAPTER 244

PRESCRIBING PSYCHOLOGISTS

- 244.1(148,154B) Definitions—joint rule
- 244.2(154B) Conditional prescription certificate
- 244.3(148,154B) Educational requirements for conditional prescription certificate—joint rule
- 244.4(148,154B) Supervised practice as a conditional prescribing psychologist—joint rule
- 244.5(154B) Prescription certificate
- 244.6(148,154B) Prescribing—joint rule
- 244.7(148,154B) Consultation with primary care physicians—joint rule
- 244.8(148,154B) Collaborative practice—joint rule
- 244.9(154B) Grounds for discipline
- 244.10(154B) List of psychologists
- 244.11(148,154B) Complaints—joint rule
- 244.12(148,154B) Joint waiver—joint rule
- 244.13(148,154B) Amendment—joint rule

CHAPTERS 245 to 260

Reserved

RESPIRATORY CARE PRACTITIONERS

CHAPTER 261

LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS, AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS

- 261.1(148G,152B) Definitions
- 261.2(148G,152B) General requirements for licensure
- 261.3(152B) Additional requirements for respiratory care practitioner licensure
- 261.4(148G,152B) Additional requirements for polysomnographic technologist licensure
- 261.5(148G,152B) Requirements for dual licensure
- 261.6 and 261.7 Reserved

- 261.8(148G,152B) License renewal
- 261.9 to 261.13 Reserved
- 261.14(17A,147,272C) License reactivation
- 261.15(17A,147,272C) License reinstatement

CHAPTER 262

CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

- 262.1(148G,152B,272C) Definitions
- 262.2(148G,152B,272C) Continuing education requirements
- 262.3(148G,152B,272C) Standards
- 262.4 Reserved
- 262.5(148G,152B,272C) Automatic exemption
- 262.6(148G,152B,272C) Grounds for disciplinary action
- 262.7(148G,152B,272C) Continuing education exemption for disability or illness

CHAPTER 263

DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

- 263.1(148G,152B) Definitions
- 263.2(148G,152B,272C) Grounds for discipline
- 263.3(147,272C) Method of discipline
- 263.4(272C) Discretion of board

CHAPTER 264

Reserved

CHAPTER 265

PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

- 265.1(148G,152B,272C) Definitions
- 265.2(148G,152B,272C) Code of ethics
- 265.3(152B,272C) Intravenous administration
- 265.4(152B,272C) Setup and delivery of respiratory care equipment
- 265.5(152B,272C) Respiratory care as a practice
- 265.6(148G,272C) Practice of polysomnography
- 265.7(148G,152B,272C) Students
- 265.8(148G,272C) Location of polysomnography services

CHAPTERS 266 to 279

Reserved

SOCIAL WORKERS

CHAPTER 280

LICENSURE OF SOCIAL WORKERS

- 280.1(154C) Definitions
- 280.2(154C) Social work services subject to regulation
- 280.3(154C) Requirements for licensure
- 280.4(154C) Written examination
- 280.5(154C) Educational qualifications
- 280.6(154C) Supervised clinical experience
- 280.7(154C) Licensure by endorsement
- 280.8 Reserved

- 280.9(154C) License renewal
- 280.10 to 280.13 Reserved
- 280.14(17A,147,272C) License reactivation
- 280.15(17A,147,272C) License reinstatement

CHAPTER 281

CONTINUING EDUCATION FOR SOCIAL WORKERS

- 281.1(154C) Definitions
- 281.2(154C) Continuing education requirements
- 281.3(154C,272C) Standards

CHAPTER 282

PRACTICE OF SOCIAL WORKERS

- 282.1(154C) Definitions
- 282.2(154C) Rules of conduct

CHAPTER 283

DISCIPLINE FOR SOCIAL WORKERS

- 283.1(154B) Definitions
- 283.2(272C) Grounds for discipline
- 283.3(147,272C) Method of discipline
- 283.4(272C) Discretion of board

CHAPTERS 284 to 299

Reserved

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300

LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

- 300.1(147) Definitions
- 300.2(147) Requirements for licensure
- 300.3(147) Educational qualifications
- 300.4(147) Examination requirements
- 300.5(147) Speech therapy and audiology compact
- 300.6(147) Temporary clinical license
- 300.7(147) Temporary permit
- 300.8(147) Use of assistants
- 300.9(147) Licensure by endorsement
- 300.10(147) License renewal
- 300.11(17A,147,272C) License reactivation
- 300.12(17A,147,272C) License reinstatement

CHAPTER 301

PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

- 301.1(147) Telehealth visits

CHAPTER 302

Reserved

CHAPTER 303
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS
AND AUDIOLOGISTS

- 303.1(147) Definitions
- 303.2(147) Continuing education requirements
- 303.3(147,272C) Standards

CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

- 304.1(272C) Grounds for discipline

CHAPTERS 305 to 325
Reserved

PHYSICIAN ASSISTANTS

CHAPTER 326
LICENSURE OF PHYSICIAN ASSISTANTS

- 326.1(148C) Definitions
- 326.2(148C) Requirements for licensure
- 326.3(148C) Temporary licensure
- 326.4(148C) Licensure by endorsement
- 326.5 Reserved
- 326.6(148C) Examination requirements
- 326.7(148C) Educational qualifications
- 326.8(148C) Supervision requirements
- 326.9(148C) License renewal
- 326.10 to 326.14 Reserved
- 326.15(148C,88GA,ch1020) Use of title
- 326.16(148C) Address change
- 326.17(148C) Student physician assistant
- 326.18(148C) Recognition of an approved program
- 326.19(17A,147,272C) License reactivation
- 326.20(17A,147,272C) License reinstatement

CHAPTER 327
PRACTICE OF PHYSICIAN ASSISTANTS

- 327.1(148C,88GA,ch1020) Duties
- 327.2(148C) Prohibition
- 327.3 Reserved
- 327.4(148C,88GA,ch1020) Remote medical site
- 327.5(147,88GA,ch1020) Identification as a physician assistant
- 327.6(147) Prescription requirements
- 327.7(147) Supplying—requirements for containers, labeling, and records
- 327.8(148C) Sharing information
- 327.9(147,148C,272C) Standards of practice—telemedicine

CHAPTER 328
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

- 328.1(148C) Definitions
- 328.2(148C) Continuing education requirements
- 328.3(148C,272C) Standards

CHAPTER 329
DISCIPLINE FOR PHYSICIAN ASSISTANTS

- 329.1(148C) Definitions
- 329.2(148C,272C) Grounds for discipline
- 329.3(147,272C) Method of discipline
- 329.4(272C) Discretion of board

CHAPTERS 330 to 350
Reserved

ATHLETIC TRAINERS

CHAPTER 351
LICENSURE OF ATHLETIC TRAINERS

- 351.1(152D) Definitions
- 351.2(152D) Requirements for licensure
- 351.3(152D) Educational qualifications
- 351.4(152D) Examination requirements
- 351.5(152D) Documentation of physician direction
- 351.6(152D) Athletic training plan for direct service
- 351.7(152D) Licensure by endorsement
- 351.8 Reserved
- 351.9(147) License renewal
- 351.10 to 351.14 Reserved
- 351.15(17A,147,272C) License reactivation
- 351.16(17A,147,272C) License reinstatement

CHAPTER 352
CONTINUING EDUCATION FOR ATHLETIC TRAINERS

- 352.1(272C) Definitions
- 352.2(152D) Continuing education requirements
- 352.3(152D,272C) Standards
- 352.4(152D,272C) Audit of continuing education report
- 352.5 and 352.6 Reserved
- 352.7(152D,272C) Continuing education waiver for active practitioners
- 352.8(152D,272C) Continuing education exemption for inactive practitioners
- 352.9 Reserved
- 352.10(152D,272C) Reinstatement of inactive practitioners
- 352.11(272C) Hearings

CHAPTER 353
DISCIPLINE FOR ATHLETIC TRAINERS

- 353.1(152D) Definitions
- 353.2(152D,272C) Grounds for discipline
- 353.3(152D,272C) Method of discipline
- 353.4(272C) Discretion of board

CHAPTERS 354 to 360
Reserved

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361

LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

- 361.1(154E) Definitions
- 361.2(154E) Requirements for licensure
- 361.3(154E) Requirements for temporary license
- 361.4(154E) Licensure by endorsement
- 361.5(154E) License renewal
- 361.6(17A,147,272C) License reactivation
- 361.7(17A,147,272C) License reinstatement

CHAPTER 362

CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND
TRANSLITERATORS

- 362.1(154E,272C) Definitions
- 362.2(154E,272C) Continuing education requirements
- 362.3(154E,272C) Standards

CHAPTER 363

DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

- 363.1(154E) Definition
- 363.2(154E,272C) Grounds for discipline

FUNERAL DIRECTORS

CHAPTER 100	PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS
CHAPTER 101	LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS
CHAPTER 102	CONTINUING EDUCATION FOR FUNERAL DIRECTORS
CHAPTER 103	RESERVED
CHAPTER 104	DISCIPLINARY PROCEEDINGS
CHAPTER 105	ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

CHAPTER 100
PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS

[Prior to 9/21/88, see Health Department[470] Ch 146]

645—100.1(156) Definitions.

“Alternative container” means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for the encasement of human remains and that is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials that prevents the leakage of body fluid.

“Authorized person” means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements, including but not limited to embalming, cremation, funeral services, and the disposition of human remains pursuant to Iowa Code section 144C.5.

“Autopsy” means the postmortem examination of a human remains.

“Board” means the board of mortuary science.

“Body parts” means appendages or other portions of the anatomy that are from a human body.

“Burial.” See *“Interment.”*

“Burial transit permit” means a legal document authorizing the removal and transportation of a human remains.

“Casket” means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

“Cemetery” means an area designated for the final disposition of human remains.

“Columbarium” means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

“Cremated remains” means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization that leaves only bone fragments reduced to unidentifiable dimensions and may include the residue of any foreign matter, including casket material, bridgework or eyeglasses that were cremated with the human remains.

“Cremation” means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation will include the processing, and may include the pulverization, of the bone fragments.

“Cremation authorization form” means a form, completed and signed by a funeral director and authorized person, to accompany all human remains accepted for cremation.

“Cremation chamber” means the enclosed space within which a cremation takes place.

“Cremation establishment” means any person, partnership or corporation that is licensed by the board and provides any aspect of cremation services.

“Cremation permit” means a permit issued by a medical examiner allowing cremation for human remains.

“Cremation room” means the room in which the cremation chamber is located.

“Crypt” means a chamber in a mausoleum of sufficient size to contain casketed human remains.

“Custody” means immediate charge and control exercised by a person or an authority.

“Dead body.” See *“Human remains.”*

“Death certificate” means a legal document containing vital statistics pertaining to the life and death of the decedent.

“Decedent.” See *“Human remains.”*

“Disinterment” means to remove a human remains from its place of final disposition.

“Disinterment permit” means a permit from the department of health and human services that allows the removal of a human remains from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

“Disinterment permit number” means the number assigned to a disinterment permit by the department of health and human services, giving the funeral director the authority to remove a human remains from its place of final disposition.

“Embalming” means the disinfection or temporary preservation of human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by surface application into or on the organs or cavities for the purpose of temporary preservation or disinfection.

“Embalming record” means a record completed by the licensed funeral director or registered intern for each body embalmed in Iowa, or otherwise prepared for disposition by the licensee. “Embalming record” includes, at a minimum, a case analysis and a detailed listing of the procedures or treatments or both performed on the deceased.

“Entombment” means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

“Final disposition” means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

“Funeral ceremony” means a service commemorating the decedent.

“Funeral director” means a person licensed by the board to practice mortuary science.

“Funeral establishment” means a place of business as defined and licensed by the board devoted to providing any aspect of mortuary science.

“Funeral rule” means the Federal Trade Commission Funeral Rule, 16 CFR §453.4, as amended to 1994.

“Funeral services” means any services that may be used to (1) care for and prepare human remains for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or final disposition of human remains.

“Holding facility” means an area isolated from the general public that is designated for the temporary retention of human remains.

“Human remains” means a deceased human being for which a death certificate or fetal death certificate is required.

“Interment” means to place a casketed human remains or an urn containing cremated remains in the ground.

“Intern” means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board.

“Mausoleum” means an aboveground structure designed for entombment of human remains.

“Medical examiner” means a public official whose primary function is to investigate and determine the cause of death when death may be thought to be from other than natural causes.

“Memorial ceremony” means a service commemorating the decedent.

“Niche” means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

“Preparation room” means a room in a funeral establishment where human remains are prepared, sanitized, embalmed or held for ceremonies and final disposition.

“Pulverization” means a process following cremation that reduces identifiable bone fragments into granulated particles.

“Removal” means the act of taking a human remains from the place of death or place where the human remains is being held to a funeral establishment or other designated place.

“*Removal technician*” means a person registered with the board to perform removals.

“*Scattering area*” means a designated area where cremated remains may be commingled with other cremated remains.

“*Temporary cremation container*” means a durable receptacle designed for short-term retention of cremated remains.

“*Their own dead*” refers to the legal authority the authorized person has regarding a human remains.

“*Topical disinfection*” means the direct application of chemical substances on the surface of a human remains for the purpose of temporary preservation or disinfection.

“*Transfer.*” See “*Removal.*”

“*Universal precautions*” means a concept of care based upon the assumption that all blood and body fluids, and materials that have come into contact with blood or body fluids, are potentially infectious as prescribed by the Centers for Disease Control and Prevention (CDC).

“*Urn*” means a receptacle designed for permanent retention of cremated remains.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.2(156) Funeral director duties.

100.2(1) Practices requiring a funeral director’s license include but are not limited to:

- a. Removal as specified in rule 645—100.4(142,156).
- b. Embalming human remains as specified in rule 645—100.6(156) and completing embalming records as specified in paragraph 100.11(2) “d.”
- c. Conducting funeral arrangements as specified in subrule 100.7(2).
- d. Conducting funeral services when contracted to do so, including:
 - (1) Direct supervision of visitation and viewing.
 - (2) Funeral and memorial ceremonies.
 - (3) Committal and final disposition services.
- e. Conducting cremation services as specified in rule 645—100.10(156).
- f. Signing death certificates and performing associated duties under Iowa Code chapter 144.

100.2(2) Delegation of professional tasks.

a. Registered interns. Registered interns may provide funeral director services identified in paragraphs 100.2(1) “a” through “f” under the direct supervision of an Iowa-licensed preceptor. A registered intern will not sign a death certificate.

b. A funeral director may delegate solely the transportation of unembalmed human remains to a registered removal technician pursuant to subrule 100.4(3).

100.2(3) CDC universal precautions and OSHA standards. The funeral director and delegates identified in subrule 100.2(2) will observe current guidelines of universal precautions as prescribed by the Centers for Disease Control and Prevention (CDC) as well as Occupational Safety and Health Administration (OSHA) standards.

100.2(4) Funeral directors who provide mortuary science services from funeral establishments located in another state. A funeral director who holds an active Iowa funeral director’s license and whose practice is conducted from a funeral establishment located in another state may provide mortuary science services in Iowa if the establishment holds a current license in the state in which it is located, if such a license is required.

100.2(5) Withholding human remains. A funeral director will not withhold human remains based solely on nonpayment of fees.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.3(156) Permanent identification tag.

100.3(1) The funeral director, intern, or removal technician who assumes possession of a human remains will attach a permanent identification tag.

100.3(2) The identification tag will initially contain, at a minimum, the name of the deceased.

100.3(3) Before final disposition, the identification tag will contain the name of the deceased and the date of birth, date of death and social security number of the deceased and the name and license number of the funeral establishment in charge of disposition.

100.3(4) The identification tag will be attached to the human remains throughout the entire time the human remains are in the possession of the funeral establishment and will remain with the human remains.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.4(142,156) Removal and transfer of human remains.

100.4(1) Removal and transfer of human remains. The funeral director will perform the following duties upon notification of a death:

a. Comply with jurisdictional authority, with respect to medicolegal responsibilities, regarding the removal of the human remains.

b. Provide signature and license number when removing a human remains from a hospital, nursing establishment or any other institution involved with the care of the public.

100.4(2) After the funeral director has assumed custody of the human remains, the funeral director may delegate the task of transferring the human remains to an unlicensed employee, intern, or agent. Prior to transfer, the funeral director will topically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit.

100.4(3) A funeral director may delegate to a removal technician the removal and transportation of unembalmed human remains without first assuming custody, and without topically disinfecting or securing body orifices, if either of the following is true. The removal and transportation is:

a. At the direction of the medical examiner; or

b. To or from the funeral establishment where the removal technician is registered.

100.4(4) A removal technician must complete the annual OSHA training related to blood-borne pathogens, formaldehyde exposure and proper lifting techniques.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.5(135,144) Burial transit permits. A licensed funeral director may issue a burial transit permit for the removal and transfer of human remains, according to state law and the administrative rules promulgated by the department of health and human services.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.6(156) Preparation and embalming activities.

100.6(1) The funeral director will perform the following duties prior to and during embalming according to commonly accepted industry standards.

a. Obtain authorization for embalming from an authorized person. If permission to embalm cannot be obtained from the authorized person, the funeral director may proceed with the embalming if necessary to comply with subrule 100.6(3).

b. Embalm entirely in private. No one except the funeral director, intern, immediate family, or student will be allowed in the preparation room without the written permission of the authorized person. A student must be under the direct physical supervision of the funeral director and currently enrolled and attending a program of mortuary science that is recognized by the board to be allowed in the preparation room without written permission during the embalming.

c. Keep the human remains properly covered at all times.

d. Conduct a preembalming case analysis of the human remains. Recognize the potential chemical effects on the body and select the proper embalming chemicals based upon the analysis.

e. Position the human remains on the preparation table and pose the facial features.

f. Select points of drainage and injection, and raise the necessary vessels.

g. Embalm by arterial and cavity injection of embalming chemicals. If the condition of the human remains does not allow arterial and cavity injection of embalming chemicals, topical embalming, using appropriate chemicals and procedures, will be performed.

h. Evaluate the distribution of the embalming chemicals and perform treatment for discoloration, vascular difficulties, decomposition, dehydration, purge and close any incisions once the arterial and cavity injection of the embalming chemicals is complete.

100.6(2) Postembalming activities. The funeral director will perform the following duties at the conclusion of the embalming activities if necessary.

- a. Pack or otherwise secure all body orifices with material that will absorb and retain all secretions.
- b. Apply chemicals topically and perform hypodermic treatments.
- c. Bathe, disinfect and reposition the human remains.
- d. Clean and disinfect the embalming instruments, equipment and preparation room.
- e. Perform any restorative treatments.
- f. Select and apply the appropriate cosmetic treatments.
- g. Prepare the human remains for viewing.

100.6(3) Care of the unembalmed human remains.

a. Embalming may be omitted provided that interment or cremation is performed within 72 hours after death or within 24 hours of taking custody if a human remains was previously in the custody of others, whichever is longer.

b. If refrigeration is utilized, embalming or final disposition may be extended up to 72 hours longer than the maximum period provided in paragraph 100.6(3) "a." The body must be kept between 38 and 42 degrees Fahrenheit.

c. If viewing of the unembalmed human remains is requested, the human remains will be topically disinfected and all body orifices will be packed or otherwise secured with material that will absorb and retain all secretions.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.7(156) Arranging and directing funeral and memorial ceremonies.

100.7(1) *The Federal Trade Commission.* The funeral director will observe current guidelines of the Federal Trade Commission (FTC) funeral rule.

100.7(2) *Arrangement conference activities.* If responsible, the funeral director will perform the following duties associated with arranging ceremonies and the final disposition of a human remains.

a. Gather necessary statistical and biographical information relating to the decedent and explain the varied use of the information gathered.

b. Present, discuss and explain the mandated FTC price lists and assist or provide the consumer with:

- (1) The types of ceremony or final disposition.
- (2) The specific goods and services.
- (3) The prices of any goods and services.
- (4) The written, itemized statement of the funeral goods and services.
- (5) A general price list.

At the conclusion of arrangements, the itemized statement will be signed by the purchaser and the funeral director.

100.7(3) *Directing of funeral and memorial ceremonies.* If responsible, the funeral director will perform the following duties:

- a. Direct and supervise ceremonies.
- b. Direct and supervise final disposition.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.8(142,156) Unclaimed human remains for scientific use.

100.8(1) A human remains is unclaimed when:

a. The decedent did not express a desire to be interred, entombed or cremated.

b. Relatives or friends of the decedent did not request that the decedent's human remains be interred, entombed or cremated.

100.8(2) Friend distinguished from casual acquaintance. A friend will be distinguished from a casual acquaintance by the friend's having been closely associated with the decedent during the decedent's lifetime.

100.8(3) Delivery of human remains for scientific purposes. The funeral director, the medical examiner or managing officer of a public health institution, hospital, county home, penitentiary or

reformatory will notify the department of health and human services as soon as any unclaimed human remains that may be suitable for scientific purposes will come into the person's custody.

100.8(4) Department instructions. When the department of health and human services receives notice, the funeral director will be instructed as to the proper disposition of a human remains.

100.8(5) Expenses incurred by funeral director. The expenses incurred by the funeral director for the transportation of a human remains to a medical college will be paid by the medical college receiving the human remains.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.9(144) Disinterments. A funeral director in charge of a disinterment will ensure that the disinterment is performed in accordance with rules promulgated by the department of health and human services and will first secure a disinterment permit issued by the department of health and human services.

100.9(1) No person will disinter a human remains or cremated remains unless the funeral director in charge of the disinterment has a numbered disinterment permit that has been issued by the department of health and human services or by an order of the district court of the county in which the human remains or cremated remains are interred or entombed.

100.9(2) All disinterment permits will be requested and provided by the department of health and human services.

100.9(3) All disinterment permits will be signed by the authorizing person.

100.9(4) Disinterment permits will be furnished upon request from the department of health and human services and will remain valid for 30 days after issuance.

100.9(5) Disinterment permits will only be issued to the funeral director, and the disinterment must be done under the direct supervision of the funeral director.

100.9(6) Disinterment permits will be required for any relocation of a human remains from the original site of interment or entombment if the purpose is for autopsy or reburial.

100.9(7) No disinterment permit is necessary to remove a human remains or cremated remains from a holding facility for interment or entombment in the same cemetery where being temporarily held.

100.9(8) A funeral director may await a court order before proceeding with disinterment if the funeral director is aware of a dispute among:

a. Persons who are members of the same class of persons described in 641—subrule 97.14(4) as having authority to control the human remains; or

b. Persons who are authorized pursuant to 641—subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.10(156) Cremation of human remains.

100.10(1) *Recordkeeping.*

a. Delivery receipt.

(1) When a human remains is delivered to a cremation establishment, the cremation establishment will furnish to the delivery person a delivery receipt containing:

1. The name, address, age, gender, and cause of death of the decedent whose human remains are delivered to the cremation establishment.

2. The date and time of delivery and the type of container that contains the human remains.

3. If applicable, the name of the funeral director who sent the human remains and the name and license number of the funeral director's associated funeral establishment.

4. The signature of the person who delivered the human remains.

5. The signature of the person receiving the human remains on behalf of the cremation establishment.

6. The name and business address of the cremation establishment.

(2) The cremation establishment will retain a copy of the delivery receipt in its permanent records.

b. Receiving receipt.

(1) The cremation establishment will furnish to any person who receives the cremated remains from the cremation establishment a receiving receipt containing:

1. The name of the decedent whose cremated remains are released from the cremation establishment.
 2. The date and time when the cremated remains were released from the cremation establishment.
 3. The name of the person to whom the cremated remains are released and the name and license number of the funeral establishment, cemetery, family or other person or entity with which that person is affiliated.
 4. The signature of the person who receives the cremated remains.
 5. The signature of the person who released the cremated remains on behalf of the cremation establishment.
 6. The name of the cremation establishment operator and the date and time of the cremation.
- (2) The cremation establishment will retain a copy of the receiving receipt in its permanent records.
- c. *Permanent record.* A cremation establishment will maintain at its place of business a permanent record that includes the following:
- (1) Name of the deceased person.
 - (2) Date and time of the cremation.
 - (3) Copies of the delivery receipt and the receiving receipt.
 - (4) Disposition of the cremated remains.
 - (5) Cremation authorization.
 - (6) Cremation permit if required in the jurisdiction of death.

100.10(2) *Employment of a funeral director by a cremation establishment.* No aspect of these rules will be construed to require a funeral director to supervise or perform any functions at a cremation establishment not otherwise required by law to be performed by a funeral director. The cremation establishment will contract only with a licensed funeral establishment and will not contract directly with the general public.

100.10(3) *Authorizing person and preneed cremation arrangements.* The authorized person has legal authority and may make decisions regarding the final disposition of the decedent.

100.10(4) *Authorization to cremate.*

a. The cremation establishment will have the authority to cremate human remains upon the receipt of the following:

- (1) Cremation authorization form signed by the authorized person. The cremation authorization form will contain the following:
 1. The name, address, age and gender of the decedent whose human remains are to be cremated.
 2. The date, time of death and cause of death of the decedent.
 3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the authorized person.
 4. The signature of the funeral director.
 5. The name and address of the cremation establishment authorized to cremate a human remains.
 6. The name and signature of the authorized person granting permission to cremate the human remains and the authorized person's relationship to the decedent.
 7. A representation that the authorized person has the right to authorize the cremation of the decedent in accordance with this rule.
 8. A representation that in the event there is another person who has superior priority right to that of the authorized person, the authorized person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.
 9. A representation that a human remains does not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.
 10. A representation that the authorized person has made a positive identification of the decedent or, if the authorized person is unavailable or declines, there are alternative means of positive identification.
 11. The name of the person, funeral establishment or funeral establishment's designee to which the cremated remains are to be released.
 12. The manner of the final disposition of the cremated remains.
 13. A listing of all items of value and instructions for their disposition.

(2) The cremation permit if required in the jurisdiction of death.

(3) Any other documentation required by this state.

b. If the authorized person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, email, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

c. The authorized person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The cremation establishment will honor any instructions from a funeral director or funeral establishment under this rule if the cremation establishment receives instructions prior to beginning the cremation.

100.10(5) Cremation procedures.

a. A cremation establishment will cremate human remains within 24 hours of issuance of the delivery receipt as defined in subrule 100.10(1).

b. No cremation establishment will cremate human remains when it has actual knowledge that the human remains contain a pacemaker or have any other implants or materials that will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

c. No cremation establishment will refuse to accept human remains for cremation because such human remains are not embalmed.

d. Whenever a cremation establishment is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the cremation establishment will place the human remains in a holding facility in accordance with the cremation establishment rules and regulations and within the parameters of rules 645—100.5(135,144) and 645—100.6(156).

e. No cremation establishment will accept human remains unless they are delivered to the cremation establishment in a container that prevents the leakage of body fluids.

f. Under no circumstances will an alternative container or casket be opened at the cremation establishment except to facilitate proper cremation.

g. The container in which a human remains is delivered to the cremation establishment will be cremated with the human remains or safely destroyed.

h. The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorized person, is prohibited. Nothing in this rule, however, will prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the cremation establishment from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

i. No unauthorized person will be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

j. A cremation establishment will not allow removal of any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the authorized person and written instructions for the delivery of these items to the authorized person.

k. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process will be removed from the cremation chamber.

l. If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains will be returned to the authorized person or this person's designee in a separate container. The cremation establishment will not return to an authorized person or this person's designee more or less cremated remains than were removed from the cremation chamber.

m. A cremation establishment will not knowingly represent to an authorized person or this person's designee that a temporary cremation container or urn contains the cremated remains of a specific decedent when it does not.

n. Cremated remains will be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

o. A cremation establishment will maintain an identification system that will ensure the identity of human remains in the cremation establishment's possession throughout all phases of the cremation

process. A noncombustible tag or disc that includes the name and license number of the cremation establishment and the city and state where the cremation establishment is located will be attached to the plastic bag with the cremated remains or placed in amongst the cremated remains.

100.10(6) *Disposition of cremated remains.* If responsible, the funeral director will supervise the final disposition of the cremated remains as follows:

a. Cremated remains may be disposed of by placing them in a grave, crypt, or niche or by scattering them in a scattering area as defined in these rules, or they may remain in the personal care and custody of the authorized person. After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director will be discharged.

b. Upon the completion of the cremation process, the cremation establishment will release the cremated remains to the funeral establishment or the authorized person or the authorized person's designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a burial transit permit and may dispose of them in accordance with this rule. After releasing the cremated remains, the cremation establishment will be discharged from any legal obligation or liability concerning the cremated remains.

c. If, after a period of 60 days from the date of the cremation, the authorizing person or designee has not instructed the funeral director to arrange for the final disposition of the cremated remains, the funeral director may dispose of the cremated remains in any manner permitted by this rule. The funeral establishment, however, will keep a permanent record identifying the site of final disposition. The authorizing person will be responsible for reimbursing the funeral establishment for all reasonable expenses incurred in disposing of the cremated remains. Any entity that was in possession of cremated remains prior to May 22, 2024, may dispose of them in accordance with this rule.

d. Except with the express written permission of the authorizing person, no funeral director or cremation establishment will:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition will not apply to the scattering of cremated remains in an area located in a cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary cremation container or urn.

100.10(7) *Scope of rules.* These rules will be construed and interpreted as a comprehensive cremation statute, and the provisions of these rules will take precedence over any existing laws containing provisions applicable to cremation, but that do not specifically or comprehensively address cremation.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

645—100.11(156) Records to be retained by a funeral establishment. To ensure a permanent record of the licensed activity relating to the custody of each decedent, each funeral director will create and the funeral establishment will maintain the records identified in this rule. If a registered intern or registered removal technician first takes custody of a decedent, the funeral director from whom they were delegated that authority is responsible for compliance with the rules in this chapter. Funeral directors and funeral establishments will comply with the rules adopted by the department of health and human services under Iowa Code section 144.49.

100.11(1) At a minimum, the following information, if applicable, relating to each human remains that enters the custody of the establishment/licensee will be maintained as the permanent record of licensed activity:

- a.* Name of the deceased;
- b.* Date, time, and place of death (institution or other place, city, state, zip);
- c.* Name and address of the person or funeral establishment to whom a human remains is released;
- d.* Date and from whom the funeral director assumed custody, including the name of the institution or other place of death releasing a human remains;
- e.* Date, time, and name of the licensed funeral director or registered intern completing embalming or other preparation for final disposition;

f. Date, place and method of final disposition of a human remains.

100.11(2) Each funeral establishment will create and maintain the following records for a period of ten years:

- a.* General price list required by the funeral rule, beginning on the most recent effective date;
- b.* Each completed statement of goods and services required by the funeral rule, beginning on the date the statement is signed;
- c.* Cremation records (see rule 645—100.10(156));
- d.* Embalming records;
- e.* Each preneed contract (pursuant to Iowa Code chapter 523A), beginning on the date of death.

100.11(3) The funeral records maintained by the funeral establishment as required in subrules 100.11(1) and 100.11(2) will be made available by the manager, funeral director or owner of the funeral establishment to:

- a.* Any person or entity assuming a new ownership interest or any person newly assuming the position of manager, at least ten days prior to a change in ownership or manager, unless otherwise mutually agreed upon by the parties;
- b.* Any licensed funeral director who practiced funeral directing while under the employment of, or while acting as an agent of, the funeral establishment; and
- c.* The state registrar of vital statistics and the board.

100.11(4) In the event a funeral establishment ceases to do business, the owner or manager of the funeral establishment will identify the person or entity that will be responsible for records to be maintained by a funeral establishment as required in subrules 100.11(1) and 100.11(2). The funeral establishment will notify the board if funeral records are moved from the funeral establishment to another location and identify the person responsible for their safekeeping.

[ARC 7812C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 147, 156, and 272C.

[Filed prior to 7/1/52; amended 2/24/58, 6/10/60, 3/15/72]

[Filed 4/24/80, Notice 1/9/80—published 5/14/80, effective 7/1/80]

[Filed 8/23/82, Notice 5/26/82—published 9/15/82, effective 10/21/82]

[Filed emergency after Notice 1/19/84, Notice 10/26/83—published 2/15/84, effective 1/19/84]

[Filed 7/13/84, Notice 5/23/84—published 8/1/84, effective 9/5/84]

[Filed 1/24/86, Notice 12/18/85—published 2/12/86, effective 3/20/86]

[Filed 8/30/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]

[Filed 1/17/92, Notice 9/4/91—published 2/5/92, effective 3/11/92]

[Filed 4/24/92, Notice 3/4/92—published 5/13/92, effective 6/17/92]

[Filed 1/27/95, Notice 10/26/94—published 2/15/95, effective 3/22/95¹]

[Filed 5/2/97, Notice 2/26/97—published 5/21/97, effective 6/25/97]

[Filed 8/20/97, Notice 7/2/97—published 9/10/97, effective 10/15/97]

[Filed 8/18/98, Notice 5/6/98—published 9/9/98, effective 10/14/98]

[Filed 6/19/02, Notice 1/9/02—published 7/10/02, effective 8/14/02]

[Filed 3/13/03, Notice 1/8/03—published 4/2/03, effective 5/7/03]

[Filed 3/23/05, Notice 2/16/05—published 4/13/05, effective 5/18/05]

[Filed 12/9/05, Notice 9/28/05—published 1/4/06, effective 2/8/06]

[Filed 3/9/06, Notice 1/4/06—published 3/29/06, effective 5/3/06]

[Filed 3/21/08, Notice 1/16/08—published 4/9/08, effective 5/14/08]

[Filed 9/12/08, Notice 7/30/08—published 10/8/08, effective 11/12/08]

[Filed ARC 9239B (Notice ARC 8927B, IAB 7/14/10), IAB 11/17/10, effective 12/22/10]

[Filed ARC 1274C (Notice ARC 1163C, IAB 10/30/13), IAB 1/8/14, effective 2/12/14]

[Filed ARC 1275C (Notice ARC 1164C, IAB 10/30/13), IAB 1/8/14, effective 2/12/14]

[Filed ARC 3083C (Notice ARC 3000C, IAB 3/29/17), IAB 5/24/17, effective 6/28/17]

[Filed ARC 4849C (Amended Notice ARC 4656C, IAB 9/11/19; Notice ARC 4306C, IAB 2/13/19), IAB 1/1/20, effective 2/5/20]²

[Filed ARC 7812C (Notice ARC 7531C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

- ¹ Effective date of 645—100.1(4)“a,” 100.1(5)“c,” 100.1(8)“a,” 100.6(135,144) and 100.7(135,144) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 13, 1995; delay lifted by this Committee May 9, 1995.
- ² February 5, 2020, effective date of **ARC 4849C** [100.9(6)] delayed until the adjournment of the 2020 session of the General Assembly by the Administrative Rules Review Committee at its meeting held January 10, 2020.

CHAPTER 101
LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND
CREMATION ESTABLISHMENTS

[Prior to 9/21/88, see Health Department[470] Ch 147]

[Prior to 7/10/02, see 645—100.9(156) and 645—100.10(156)]

645—101.1(156) Definitions. For purposes of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of mortuary science.

“*Change of ownership*” means a change of controlling interest ((1) an interest in a partnership of greater than 50 percent; or (2) greater than 50 percent of the issued and outstanding shares of a stock of a corporation) in a funeral establishment or cremation establishment.

“*Full time*” means a minimum of a 35-hour work week.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a funeral director in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years following initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice mortuary science to an applicant who is or has been licensed in another state.

“*Occupational Safety and Health Act*” means the Occupational Safety and Health Act of 1970, 29 U.S.C. §651 et seq.

“*Outer burial container*” means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—101.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice mortuary science to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of mortuary science to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.2(156) Requirements for licensure.

101.2(1) The applicant will be eligible to apply for a license to practice mortuary science by the board pursuant to subrule 101.2(2) when the applicant has completed the educational requirements and examination requirements, followed by a completed internship as prescribed below, in the following alphabetical order:

a. Educational qualifications.

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or “C” grade point average. The 60 college semester hours will not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

b. Examination requirements. The board will accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

c. Internship requirements as outlined in rule 645—101.3(147,156).

101.2(2) The applicant will complete an online application packet on the Iowa board of mortuary science website and pay the nonrefundable application fee.

a. If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application. Submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

b. An application that is not completed according to guidelines will not be reviewed by the board.

c. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

d. An application will not be considered until official copies of the academic transcripts have been directly transmitted from the college to the board office that demonstrate the applicant has completed a program at an approved college of mortuary science.

e. Licensees who were issued their initial licenses within six months prior to the renewal will not be required to renew their licenses until the renewal month two years later.

f. Incomplete applications that have been on file in the board office for more than two years will be:

(1) Considered invalid and will be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

101.2(3) Foreign-trained funeral directors will:

a. Provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc. The professional curriculum must be equivalent to that stated in these rules. A candidate will bear the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a mortuary science program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

d. Successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.3(147,156) Internship and preceptorship.

101.3(1) Internship.

a. The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship will be indicated on the internship certificate. The intern will engage in the practice of mortuary science only during the time indicated on the internship certificate.

b. The intern will, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in paragraph 101.3(2) “i.”

c. No licensed funeral director will permit any person in the funeral director’s employ or under the funeral director’s supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of inspections, appeals, and licensing. The registration will be posted in a conspicuous place in the intern’s primary place of practice.

d. Registered interns will not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

e. The intern will, during the internship, complete the requirements outlined in subrule 101.3(3), including to embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and to submit reports on forms furnished by the department of inspections, appeals, and licensing. Work on the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services must be completed in the physical presence of the preceptor. The first 12 embalming cases and the first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

f. Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of inspections, appeals, and licensing. These reports will be answered in full and signed by both the intern and preceptor.

g. When, for any valid reason, the board determines that the education a registered intern is receiving under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who is approved by the board.

h. The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

i. The board views a one-year internship completed in a consecutive 12-month period as the best training option. If an internship is interrupted, the internship must be completed within 24 months of the date it started in order to be readily accepted by the board. Internships that are not completed within 24 months will be preapproved by the board on such terms as the board deems reasonable under the circumstances. The board may require any or all of the following:

(1) Completion of a college course or continuing education course covering mortuary science laws and rules;

(2) Additional case reports;

(3) Extension of an internship up to an additional 12 months depending on such factors as the number of months completed during the internship, length of time that has lapsed since the intern was actively involved in the internship program, and the experience attained by the intern.

j. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

k. The intern will complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form will be submitted before a funeral director license is issued to the intern.

l. The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

101.3(2) Preceptorship.

a. A preceptor must have completed a training course within five years prior to accepting an intern. This training course will cover Iowa law and rule content areas including, but not limited to, Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for the licensure biennium in which the training course was completed.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a preceptor training course detailed in paragraph 101.3(2)“a” will be eligible to be a preceptor.

c. The preceptor will be affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

d. The preceptor will certify that the intern engages in the practice of mortuary science only during the time frame designated on the official intern certificate.

e. A preceptor’s duties will include the following:

(1) Ensure the intern completes the training program outlined in subrule 101.3(3);

(2) Be physically present and supervise the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services;

(3) Familiarize the intern in the areas specified by the preceptor training outline;

(4) Read, add appropriate comments to, and sign each of the 25 embalming reports and the 25 funeral directing reports completed by the intern;

(5) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month; and

(6) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This evaluation will be submitted within two weeks of the end of the internship. The 12-month report will be submitted to the board for review and approval prior to the board's approval of the intern for licensure.

f. Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, will result in an investigation of the preceptor by the board and may result in actions which may include, but not be limited to, the loss of preceptor status for current and future interns or discipline or both.

g. If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed funeral director may serve with the approval of the board.

h. No licensed funeral director or licensed funeral establishment will have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, with a maximum of two interns per funeral establishment.

i. With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

(1) A single preceptor must act in the role of the primary preceptor.

(2) The primary preceptor is responsible for coordinating all intern training and activities.

(3) The intern will be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.

(4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher-volume practice or a broader range of intern experiences.

(5) Each preceptor will be individually responsible for directly supervising the intern's activities performed under the preceptor's guidance, but the primary preceptor remains responsible for coordinating the intern's activities and submitting all forms to the board.

101.3(3) Intern training requirements.

a. The board-approved preceptor will ensure that the intern is knowledgeable of each of the following items during the internship:

(1) The requirements of the Federal Trade Commission Funeral Rule.

(2) The requirements of the Occupational Safety and Health Act.

(3) The requirements of the Americans with Disabilities Act.

(4) The benefits of the Social Security and Veterans Health Administrations.

(5) The requirements of Iowa funeral law and forms (for example, preneed in Iowa Code chapter 523A, death certificates and Iowa burial transit permits in Iowa Code chapter 144, authorized person in Iowa Code chapter 144C, Iowa department of inspections, appeals, and licensing law and rules governing funeral practice, and the board's laws and rules).

b. The board-approved preceptor will ensure that the intern performs each of the following under the preceptor's direct supervision:

(1) Assists with or performs a minimum of ten transfers of human remains.

(2) Performs 25 embalming of human remains to include:

1. Obtaining permission to embalm.

2. Placement of human remains on preparation table.

3. Pre-embalming analysis.

4. Primary disinfection.

5. Setting features.
6. Selection of injection/drainage sites and raising those vessels.
7. Selection and mixing of embalming chemicals and operation of the embalming machine.
8. Injection and drainage methods.
9. Cavity treatment.
10. Suturing techniques.
- (3) Prepares a minimum of ten human remains for viewing to include:
 1. Dressing.
 2. Cosmetizing.
 3. Casketing.
- (4) Assists with cremation procedures to include:
 1. Contacting the medical examiner.
 2. Completing required cremation forms.
 3. Preparing human remains for cremation.
- (5) Makes complete funeral arrangements with a minimum of ten families to include each of the following, as applicable:
 1. Presentation of funeral goods, products and services.
 2. Presentation of payment options for families.
 3. Contacting third-party suppliers of goods and services, such as clergy, cemetery personnel, outer burial container provider, cremation establishment, florist, and musicians.
 4. Completing the obituary.
 5. Presentation of general price list and associated price lists.
 6. Preparation and presentation of statement of funeral goods and services.
- (6) Coordinates, at a minimum, ten visitations to include:
 1. Preparing the chapel, visitation room or other facility.
 2. Setting up floral arrangements.
 3. Setting up register book and memorial folders or prayer cards.
- (7) Directs a minimum of 25 funerals or memorial services to include, as applicable:
 1. Greeting funeral attendees.
 2. Assisting casket bearers.
 3. Preparing for funeral procession.
 4. Driving a vehicle in procession.
 5. Assisting at graveside committal.
 6. Transporting flowers.
 7. Coordinating with officiant and family.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.4(156) Student practicum.

101.4(1) A student may participate in a student practicum in a licensed funeral establishment in Iowa if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student practicum must meet the requirements of the ABFSE.

101.4(2) Students serving a practicum in Iowa will be under the direct physical supervision of a funeral director who meets the following requirements:

- a. Has completed the Iowa preceptor training course within the immediately preceding five years.
- b. Has not had any formal disciplinary action within the past five years.
- c. Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.5(156) Funeral establishment license or cremation establishment license.

101.5(1) A place of business devoted to providing any aspect of mortuary science or cremation services will hold an establishment license issued by the board. An establishment license will not be issued more than 30 days prior to the opening of a new establishment.

a. A funeral establishment or a cremation establishment will not be operated until it has obtained a license from the board. Each establishment will timely renew the license in order to continue operations.

b. A funeral or cremation establishment will surrender its license to the board if the establishment fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2)“*d.*”

c. A funeral or cremation establishment license is not transferable or assignable.

d. A change in ownership will require the issuance of a new license. A change in ownership will be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer.

e. An establishment license will be issued for a specific physical location. A change in location or site of an establishment will require the submission of an application for a new license and payment of the fee required by 645—subrule 5.9(9). A new establishment license must be issued prior to the commencement of business in a new location.

f. A change in the name of an establishment will be reported to the board within 30 days. The establishment owner will pay the fee for reissuing the license.

g. A change in address or of the funeral director in responsible charge will be reported to the board within 30 days.

h. An establishment will have an employment or other relationship with one or more licensed funeral directors who will perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment will not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who will be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment will report to the board any change of the funeral director in responsible charge within 30 days of the change.

i. The board will not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees will ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.

j. The establishment license will be displayed in a conspicuous place at the location of the establishment.

k. Failure to comply with any of these rules will constitute grounds for discipline pursuant to 645—Chapter 104 or civil penalties for unlicensed practice pursuant to 645—Chapter 105.

101.5(2) A funeral establishment or cremation establishment will be subject to applicable local, state and federal health and environmental requirements and will obtain all necessary licenses and permits from the agencies with jurisdiction.

101.5(3) License application. Complete an online application on the Iowa board of mortuary science website and pay the nonrefundable funeral or cremation application fee. If there is both a funeral establishment and a cremation establishment at the same location, two establishment license applications will be required, along with the payment of two establishment application fees. The application will contain all of the following:

a. The name, mailing address and telephone number of the applicant.

b. The physical location of the establishment.

c. The mailing address, telephone number, fax number and email address of the establishment.

d. The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment’s compliance with laws and rules pertaining to the operation of the establishment.

e. The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).

f. The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.

g. The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.

h. The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who will have responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment will be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.

i. All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than \$500).

j. All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523I or action by the Federal Trade Commission.

k. Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.6(156) Renewal of funeral director license.

101.6(1) The biennial license renewal period for a license to practice as a funeral director will begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

101.6(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal, with 2 of the 24 hours covering current Iowa law and rules as identified in 645—paragraph 102.3(2)“f.”

101.6(3) A licensee seeking renewal will:

a. Meet the continuing education requirements of rule 645—102.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Complete an online renewal application on the board of mortuary science website and pay the renewal fee before the license expiration date.

Persons licensed to practice funeral directing will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

101.6(4) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

101.6(5) A person licensed to practice as a funeral director will keep the license certificate displayed in a conspicuous public place at the primary site of practice.

101.6(6) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule

5.14(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

101.6(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a funeral director in Iowa until the license is reactivated. A licensee who practices as a funeral director in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.7(272C) Renewal of a funeral establishment license or a cremation establishment license.

101.7(1) Renewal.

a. The renewal cycle will be triennial beginning July 1 and ending on June 30 of the third year.

b. The renewal will be to complete an online renewal application on the Iowa board of mortuary science website and pay the renewal fee.

101.7(2) Failure to receive notice from the board will not relieve the license holder of the obligation to pay triennial renewal fees on or before the renewal date.

101.7(3) Funeral and cremation establishments will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

101.7(4) Late renewal. If the renewal fee and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration will be charged.

101.7(5) When all requirements for license renewal are met, the licensee will be sent a license renewal card by email.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.8(272C) Inactive funeral establishment license or cremation establishment license.

101.8(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or cremation establishment license, complete an online reactivation application on the Iowa board of mortuary science website and pay the reactivation fee.

101.8(2) A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and will not provide mortuary science services until the license is reactivated.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.9(17A,147,272C) Reinstatement of a funeral establishment license or a cremation establishment license. For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—101.9(272C) prior to offering mortuary science services from that establishment in this state.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.10(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee will:

101.10(1) Complete an online reactivation application on the Iowa board of mortuary science website and pay the reactivation fee.

101.10(2) Provide verification of current competence to practice as a funeral director by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction in which the applicant is or has been licensed that discloses if disciplinary action was taken.

(2) Verification of completion of 24 hours of continuing education that meets continuing education standards defined in rule 645—102.3(156,272C) within two years prior to filing the application for reactivation; and

(3) Verification of completion of two hours of continuing education in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. These 2 hours will be included as a part of the 24 hours required in subparagraph 101.11(3)“a”(2).

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction the applicant is or has been licensed that discloses if disciplinary action was taken.

(2) Verification of completion of 48 hours of continuing education that meet continuing education standards defined in 645—subrule 102.3(1) and 645—paragraphs 102.3(2)“a,” “b,” “c,” and “e,” within two years prior to filing the application for reactivation. Independent study identified in 645—paragraph 102.3(2)“f” will not exceed 24 hours of the 48 hours; and

(3) Verification of completion of a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. [ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.11(17A,147,272C) Reinstatement of a funeral director license. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—101.11(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.12(156) Removal technician education and training requirements.

101.12(1) A removal technician will complete an in-person or live, real-time interactive media education training program that is approved by the board of mortuary science and provides education and training on the following:

a. Requirements of the Federal Trade Commission Funeral Rule as defined in rule 645—100.1(156);

b. Requirements of the Occupational Safety and Health Act relevant to the removal technician’s duties;

c. Iowa laws and rules relevant to removal technicians; and

d. Pertinent equipment.

101.12(2) It is the responsibility of the removal technician to maintain documentation of successful completion of the education training program described in subrule 101.12(1).

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

645—101.13(156) Removal technician supervision and requirements.

101.13(1) A removal technician will serve under the direct supervision of an Iowa licensed funeral director, will only perform removals at the direction of the supervising funeral director, and may act in place of a funeral director only in performing a removal.

101.13(2) Any Iowa-licensed funeral director who meets the following conditions is eligible to be a supervisor:

- a.* Has been practicing for a minimum of five years;
- b.* Has not had any formal disciplinary action within the past five years with the board of mortuary science; and
- c.* Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

101.13(3) A removal technician seeking registration will complete an application on forms provided by the board and remit a fee in the amount of \$50 to the board. The application will include the applicant's full name, date of birth, and home address; the name and license number of the removal technician's supervising funeral director; and the name and address of the funeral establishment primarily employing the removal technician. A registration is effective for five years and may be renewed within 60 days of expiration. A removal technician will advise the board in writing of any change in supervisor or funeral establishment within 30 days.

101.13(4) The supervising funeral director will:

- a.* Ensure the removal technician completes the education training program described in rule 645—101.12(156) and is registered as a removal technician with the board;
- b.* Be physically present and directly supervise the removal technician's first five removals;
- c.* Ensure the removal technician performs its duties as outlined in subrule 101.13(2);
- d.* Not supervise more than two removal technicians; and
- e.* Not have more than four registered removal technicians employed by the same funeral establishment, or any funeral establishment owned, operated, or affiliated with that funeral establishment.

101.13(5) Removal technicians will:

- a.* Be employed full- or part-time by the Iowa-licensed funeral establishment;
- b.* Complete the requirements of rule 645—101.12(156) and have their first five removals completed in the physical presence of and directly supervised by their supervising Iowa licensed funeral director;
- c.* Comply with subrule 100.4(1) on behalf of their supervising licensed funeral director, including providing their signature and registration number when removing a human remains from a hospital, nursing establishment, or any other institution involved with the care of the public.

101.13(6) Removal technicians will not:

- a.* Advertise or hold themselves out as a funeral director or use the acronym "F.D." or any other title or abbreviation indicating that the removal technician is a funeral director;
- b.* Engage in any duties of a funeral director outside of performing a removal, including but not limited to the duties of a funeral director enumerated in 645—paragraphs 100.2(1) "b" through "f."

[ARC 7813C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 156 and 272C.

[Filed prior to 7/1/52]

[Filed 11/9/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]

[Filed 4/7/77, Notice 2/9/77—published 5/4/77, effective 6/8/77]

[Filed 6/9/78, Notice 11/2/77—published 6/28/78, effective 8/2/78]

[Filed 9/29/78, Notice 8/9/78—published 10/18/78, effective 11/22/78]

[Filed 4/11/79, Notice 9/20/78—published 5/2/79, effective 7/1/79]

[Filed emergency 5/23/79—published 6/13/79, effective 7/1/79]

[Filed 4/24/80, Notice 1/9/80—published 5/14/80, effective 7/1/80]

[Filed 4/23/81, Notice 2/4/81—published 5/13/81, effective 6/17/81]

[Filed 12/3/81, Notice 6/10/81—published 12/23/81, effective 2/1/82]

[Filed 8/23/82, Notice 5/26/82—published 9/15/82, effective 10/21/82]

[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/17/82]

[Filed 2/11/83, Notice 11/10/82—published 3/2/83, effective 4/7/83]

[Filed emergency after Notice 1/19/84, Notice 10/26/83—published 2/15/84, effective 1/19/84]

[Filed 7/13/84, Notice 5/23/84—published 8/1/84, effective 9/5/84]
 [Filed 4/15/85, Notice 2/27/85—published 5/8/85, effective 6/12/85]
 [Filed 1/10/86, Notice 7/17/85—published 1/29/86, effective 3/6/86][◇]
 [Filed 8/30/88, Notice 6/29/88—published 9/21/88, effective 10/26/88]
 [Filed 12/8/89, Notice 10/4/89—published 12/27/89, effective 1/31/90]
 [Filed 2/12/90, Notice 11/1/89—published 3/7/90, effective 4/11/90]
 [Filed 7/6/90, Notice 3/21/90—published 7/25/90, effective 9/25/90]
 [Filed 4/26/91, Notice 3/6/91—published 5/15/91, effective 6/19/91]
 [Filed 6/21/91, Notice 5/15/91—published 7/10/91, effective 8/14/91]
 [Filed 1/17/92, Notice 9/4/91—published 2/5/92, effective 3/11/92]
 [Filed 4/24/92, Notice 3/4/92—published 5/13/92, effective 6/17/92]
 [Filed 8/27/93, Notice 5/26/93—published 9/15/93, effective 10/20/93]
 [Filed 6/17/94, Notice 3/2/94—published 7/6/94, effective 8/10/94]
 [Filed 1/27/95, Notice 10/26/94—published 2/15/95, effective 3/22/95]¹
 [Filed 5/18/95, Notice 2/15/95—published 6/7/95, effective 7/12/95]
 [Filed 10/6/95, Notice 7/19/95—published 10/25/95, effective 11/29/95]
 [Filed 1/19/96, Notice 10/25/95—published 2/14/96, effective 3/20/96]
 [Filed 8/18/98, Notice 5/6/98—published 9/9/98, effective 10/14/98]
 [Filed 4/21/99, Notice 1/13/99—published 5/19/99, effective 6/23/99]
 [Filed 4/21/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]
 [Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]
 [Filed 10/13/00, Notice 9/6/00—published 11/1/00, effective 12/6/00]
 [Filed 6/19/02, Notice 1/9/02—published 7/10/02, effective 8/14/02]
 [Filed 9/9/04, Notice 7/7/04—published 9/29/04, effective 11/3/04]
 [Filed 6/15/05, Notice 4/13/05—published 7/6/05, effective 8/10/05][◇]
 [Filed 12/9/05, Notice 9/28/05—published 1/4/06, effective 2/8/06][◇]
 [Filed 6/9/06, Notice 4/12/06—published 7/5/06, effective 8/9/06]
 [Filed 3/21/08, Notice 1/16/08—published 4/9/08, effective 5/14/08]
 [Filed 9/12/08, Notice 7/30/08—published 10/8/08, effective 11/12/08]
 [Filed ARC 9239B (Notice ARC 8927B, IAB 7/14/10), IAB 11/17/10, effective 12/22/10]
 [Filed ARC 1274C (Notice ARC 1163C, IAB 10/30/13), IAB 1/8/14, effective 2/12/14]
 [Filed ARC 1275C (Notice ARC 1164C, IAB 10/30/13), IAB 1/8/14, effective 2/12/14]
 [Filed ARC 3083C (Notice ARC 3000C, IAB 3/29/17), IAB 5/24/17, effective 6/28/17]
 [Filed ARC 5760C (Notice ARC 5449C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]
 [Filed ARC 7022C (Notice ARC 6663C, IAB 11/16/22), IAB 5/31/23, effective 7/5/23]
 [Filed ARC 7813C (Notice ARC 7532C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

¹ Effective date of 645—101.3(147,156), 101.98(3), 101.212(16) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 13, 1995; delay lifted by this Committee May 9, 1995.

CHAPTER 102
CONTINUING EDUCATION FOR FUNERAL DIRECTORS

645—102.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of mortuary science.

“*Continuing education*” means planned, organized learning acts that are designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public and that meet the standards set forth in these rules.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of continuing education.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in these rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a funeral director in the state of Iowa.

[ARC 7814C, IAB 4/17/24, effective 5/22/24]

645—102.2(272C) Continuing education requirements.

102.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on the fifteenth day of the licensee’s birth month and ending on the fifteenth day of the licensee’s birth month. Each biennium, a person who holds an active license will be required to complete a minimum of 24 hours of continuing education activity. Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas, including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. A minimum of 12 hours of the 24 hours of continuing education required for renewal will be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.

102.2(2) Requirements of new licensees. Continuing education is not required in the first renewal period. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

102.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity as stipulated in rule.

102.2(4) No hours of continuing education will be carried over into the next biennium except as stated in subrule 102.2(2). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

102.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 7814C, IAB 4/17/24, effective 5/22/24]

645—102.3(156,272C) Standards.

102.3(1) General criteria. A continuing education activity must meet the following criteria:

- a. Constitute an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertain to subject matters that integrally relate to the practice of the profession;

c. Be conducted by individuals who have specialized education, training and experience concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfill stated program goals, objectives, or both; and

e. Provide proof of attendance to licensees in attendance, including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

All licensees must retain the information identified in paragraph 102.3(1)“e” for two years after the biennium has ended.

102.3(2) Specific criteria.

a. The following categories of continuing education are accepted:

(1) Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.

(2) Business management: accounting, funeral home and crematory management and merchandising, computer application, funeral directing, and small business management.

(3) Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, and philosophy.

(4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns. Insurance will be related to life insurance and will not exceed 8 hours each biennium.

b. Academic coursework that meets the criteria set forth in the rule is accepted. Continuing education credit equivalents are as follows:

1 academic semester hour = 10 continuing education hours

1 academic trimester hour = 8 continuing education hours

1 academic quarter hour = 7 continuing education hours

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

c. Attendance at or participation in a program or course that is offered or sponsored by a state or national funeral association that meets the criteria in subrule 102.3(1) and paragraph 102.3(2)“a” is accepted.

d. Independent study credits, including those obtained by television viewing, Internet, video- or sound-recorded programs, or correspondence work or by other similar means that meet the criteria in paragraph 102.3(2)“a,” must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. Continuing education credit obtained by independent study will not exceed 12 hours of the 24 hours required during the compliance period.

e. Presentations of a structured continuing education program or a college course that meets the criteria established in standards for approval may receive 1.5 times the number of hours granted the attendees. These hours will be granted only once per biennium for identical presentations.

f. Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

[ARC 7814C, IAB 4/17/24, effective 5/22/24]

645—102.4(272C) Automatic exemption. A licensee will be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Was a government employee working in the licensee’s specialty and assigned to duty outside the United States; or

3. Was absent from the state but engaged in active practice under circumstances that are approved by the board.

[ARC 7814C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 156.

[Filed 10/13/00, Notice 9/6/00—published 11/1/00, effective 12/6/00]

[Filed 6/19/02, Notice 1/9/02—published 7/10/02, effective 8/14/02]

[Filed 6/15/05, Notice 4/13/05—published 7/6/05, effective 8/10/05]

[Filed 6/9/06, Notice 4/12/06—published 7/5/06, effective 8/9/06]

[Filed 3/21/08, Notice 1/16/08—published 4/9/08, effective 5/14/08]

[Filed 9/12/08, Notice 7/30/08—published 10/8/08, effective 11/12/08]

[Filed ARC 9239B (Notice ARC 8927B, IAB 7/14/10), IAB 11/17/10, effective 12/22/10]

[Filed ARC 3083C (Notice ARC 3000C, IAB 3/29/17), IAB 5/24/17, effective 6/28/17]

[Filed ARC 7814C (Notice ARC 7533C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 103
DISCIPLINARY PROCEEDINGS
[Prior to 7/10/02, see 645—101.7(272C) to 645—101.10(272C)]
Rescinded **ARC 7815C**, IAB 4/17/24, effective 5/22/24

CHAPTER 104
DISCIPLINARY PROCEEDINGS

645—104.1(156) Definitions.

“*Board*” means the board of mortuary science.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means an individual licensed pursuant to Iowa Code section 156.4 to practice as a funeral director in Iowa and a person issued an establishment license pursuant to Iowa Code section 156.14 to establish, conduct, or maintain a funeral establishment or cremation establishment in Iowa.

[ARC 7815C, IAB 4/17/24, effective 5/22/24]

645—104.2(17A,147,156,272C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 147, 156, and 272C and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals and establishments for the performance of mortuary science services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 147.55, 272C.3 to 272C.6 and 272C.10 and chapter 156.

[ARC 7815C, IAB 4/17/24, effective 5/22/24]

645—104.3(17A,147,156,272C) Grounds for discipline against funeral directors. The board may initiate disciplinary action against a licensed funeral director based on Iowa Code section 156.9 and any of the following grounds:

104.3(1) Fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of inspections, appeals, and licensing any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

104.3(2) Professional incompetency. Professional incompetency includes but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care that is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standards of acceptable and prevailing practice of a funeral director in this state.

104.3(3) Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of mortuary science.

b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes but is not limited to an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

c. Acceptance of any fee by fraud or misrepresentation.

d. Falsification of business records through false or deceptive representations or omissions.

e. Submission of false or misleading reports or information to the board, including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

f. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.

g. Representing oneself as a funeral director when one's license has been suspended, revoked, or surrendered, or when one's license is on inactive status.

h. Permitting another person to use the licensee's license for any purposes.

i. Misrepresenting the legal need or other requirement for embalming.

j. Fraud in representations as to skill or ability.

104.3(4) Unethical, harmful or detrimental conduct. Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct that are unethical, harmful or detrimental to the public may include but are not limited to the following actions:

a. Practice outside the scope of the profession that requires licensure by a different professional licensing board.

b. Any violation of Iowa Code chapter 144.

c. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of mortuary science or such behavior otherwise provides a reasonable basis for the board to conclude that such behavior would place the public at risk within the practice of mortuary science.

d. Betrayal of a professional confidence.

e. Engaging in a professional conflict of interest.

f. Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

g. Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased, except where embalming is done to meet the requirements of applicable state or local law. However, a funeral director may embalm without authority when, after due diligence, no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section 144C.5. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this paragraph.

h. Failure to keep and maintain records as required by Iowa Code chapter 156 and associated rules.

104.3(5) Unlicensed practice.

a. Practicing mortuary science when one's license has been suspended, revoked, or surrendered, or when one's license is on inactive status.

b. Practicing mortuary science within an unlicensed funeral or cremation establishment.

c. Permitting an unlicensed employee or other person under the licensee's control or supervision to perform activities requiring a license.

d. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science, or aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is grounds for discipline under this rule or is an unlawful act by a nonlicensee under Iowa Code section 156.16.

104.3(6) Lack of proper qualifications.

a. Continuing to practice as a funeral director without satisfying the continuing education mandated by 645—Chapter 102.

b. Acting as a preceptor or continuing education provider without proper board approval or qualification.

c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the licensee's ability to practice in a safe and competent manner.

d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) “*b.*”

104.3(7) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes:

a. A failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results.

b. Any conduct, practice or condition which impairs a licensee’s ability to safely and skillfully practice the profession.

104.3(8) Professional misconduct.

a. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

b. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of mortuary science, including but not limited to Iowa Code chapters 272C, 144, 147, 156, 523A, 523I, 566, and 566A; board rules, including rules of professional conduct set forth in 645—Chapter 100; and regulations promulgated by the Federal Trade Commission relating to funeral services or merchandise, or funeral or cremation establishments, as applicable to the profession. Any violation involving deception, dishonesty or moral turpitude shall be deemed related to the practice of mortuary science.

c. Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a licensee disciplinary investigation or investigation against a nonlicensee, including failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the licensee’s last address on file at the board office.

d. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.

104.3(9) Willful or repeated violations. The willful or repeated violation of any provision of Iowa Code chapter 147, 156, or 272C.

104.3(10) Failure to report.

a. Failure by a licensee or an applicant for licensure to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action.

b. Failure of a licensee or an applicant for licensure to report, within 30 days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action.

c. Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

d. Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

e. Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

f. Failure to report a change of name or address within 30 days after it occurs.

104.3(11) Failure to comply with board order.

a. Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

b. Failure to pay costs assessed in any disciplinary action.

104.3(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense

are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

104.3(13) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

104.3(14) Failure to comply with conditions of Iowa Code sections 142C.10 and 142C.10A.
[ARC 7815C, IAB 4/17/24, effective 5/22/24]

645—104.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments. The board may initiate disciplinary action against a funeral establishment or cremation establishment, at time of license application or thereafter, based on all grounds set forth in Iowa Code section 156.15, summarized as follows:

104.4(1) The licensee or applicant has been convicted of a felony or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, the managing officer or owner has been convicted of such a crime under the laws of this state, another state, or the United States.

104.4(2) The licensee or applicant, or any owner or employee of the establishment has violated Iowa Code chapter 156, rule 645—104.3(17A,147,156,272C), or any other rule promulgated by the board.

104.4(3) The licensee or applicant knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.

104.4(4) The licensee or applicant failed to engage in or ceased to engage in the business described in the application for licensure.

104.4(5) The licensee or applicant failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.

104.4(6) The licensee or owner of the establishment has violated the smokefree air Act, Iowa Code chapter 142D.

[ARC 7815C, IAB 4/17/24, effective 5/22/24]

645—104.5(17A,147,156,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revoke a license.
2. Suspend a license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Place a licensee on probation and impose such conditions as the board may reasonably impose, including but not limited to requiring periodic reporting to the board designated features of the licensee's practice of mortuary science.
5. Require additional education or training. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1,000 against an individual licensed as a funeral director, or not to exceed \$10,000 against a licensed funeral establishment or cremation establishment. Civil penalties may be imposed for any of the disciplinary violations specified in rules 645—104.3(17A,147,156,272C) and 645—104.4(17A,147,156,272C), as applicable.
9. Issue a citation and warning, or reprimand.
10. Refuse to issue or renew a license.

11. Such other sanctions allowed by law as may be appropriate.
[ARC 7815C, IAB 4/17/24, effective 5/22/24]

645—104.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions. Factors the board will consider when determining the nature and severity of the disciplinary sanction to be imposed, including whether to assess and the amount of civil penalties, include:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state.
2. Whether the amount of a civil penalty will be a substantial deterrent to the violation.
3. The circumstances leading to the violation.
4. The risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time lapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issues involved.
11. Whether the violation was willful and intentional.
12. Whether the nonlicensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether a licensee holding an inactive, suspended, restricted or revoked license engaged in practices which require licensure.
15. Any extenuating factors or other countervailing considerations.
16. Number and seriousness of prior violations or complaints.
17. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

[ARC 7815C, IAB 4/17/24, effective 5/22/24]

645—104.7 Reserved.

645—104.8(17A,147,156,272C) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board or staff member, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges shall be filed simultaneously with the consent order.

[ARC 7815C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 156, and 272C.

[Filed 3/23/05, Notice 2/16/05—published 4/13/05, effective 5/18/05]

[Filed ARC 3083C (Notice ARC 3000C, IAB 3/29/17), IAB 5/24/17, effective 6/28/17]

[Filed ARC 7815C (Notice ARC 7526C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 105
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

645—105.1(156) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 156.16. In addition to the procedures set forth in Iowa Code section 156.16, this chapter will apply.

[ARC 7816C, IAB 4/17/24, effective 5/22/24]

645—105.2(156) Unlawful practices. Practices by unlicensed persons or establishments that are subject to civil penalties include but are not limited to:

1. Acts or practices by unlicensed persons that require licensure as a funeral director under Iowa Code chapter 156.
2. Acts or practices by unlicensed establishments that require licensure as a funeral establishment or cremation establishment under Iowa Code chapter 156.
3. Use of the words “funeral director,” “mortician,” or other title in a manner that states or implies that the person is engaged in the practice of mortuary science as defined in Iowa Code chapter 156.
4. Use or attempted use of a licensee’s certificate or an expired, suspended, revoked, or nonexistent certificate.
5. Falsely impersonating a licensed funeral director.
6. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
7. Other violations of Iowa Code chapter 156.
8. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

[ARC 7816C, IAB 4/17/24, effective 5/22/24]

645—105.3(156) Investigations. The board is authorized by Iowa Code sections 17A.13(1) and 156.16 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations will conform to the procedures outlined in this chapter. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

[ARC 7816C, IAB 4/17/24, effective 5/22/24]

645—105.4(156) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 156.16, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, that the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in rule 645—9.5(17A,272C).

[ARC 7816C, IAB 4/17/24, effective 5/22/24]

645—105.5(156) Notice of intent to impose civil penalties. The notice of the board’s intent to issue an order to require compliance with Iowa Code chapter 156 and to impose a civil penalty will be served upon the nonlicensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 156.

5. Notice of the nonlicensee's right to a hearing and the time frame in which hearing must be requested.

6. The address to which written request for hearing must be made.
[ARC 7816C, IAB 4/17/24, effective 5/22/24]

645—105.6(156) Requests for hearings.

105.6(1) Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

105.6(2) If a request for hearing is not timely made, the board chairperson or the chairperson's designee may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 156, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

105.6(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a contested case hearing in the same manner as applicable to disciplinary cases against licensees.

105.6(4) A nonlicensed person who fails to timely request a contested case hearing will have failed to exhaust "adequate administrative remedies" as that term is used in Iowa Code section 17A.19(1).

105.6(5) A nonlicensed person who is aggrieved or adversely affected by the board's final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

105.6(6) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 156 at any stage of the proceeding upon mutual consent of the board.

105.6(7) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 645—11.30(272C). Hearings will be open to the public.

[ARC 7816C, IAB 4/17/24, effective 5/22/24]

645—105.7(156) Factors to consider. The board may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.
5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.
10. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the nonlicensee acted in bad faith.
14. Whether the nonlicensee cooperated with the board.

[ARC 7816C, IAB 4/17/24, effective 5/22/24]

645—105.8(156) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement as provided in Iowa Code section 156.16.

[ARC 7816C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 147, and 156.

[Filed ARC 7816C (Notice ARC 7534C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTERS 106 to 108
Reserved

CHAPTER 109
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 110 to 113
Reserved

CHAPTER 114
IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 115
CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 116 to 119
Reserved

CHAPTER 120
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF EXAMINERS
FOR THE LICENSING AND REGULATION OF HEARING AID DISPENSERS
[Prior to 5/18/88, see Health Department[470], Ch 145]
Rescinded IAB 1/14/09, effective 2/18/09

HEARING AID SPECIALISTS

CHAPTER 121	LICENSURE OF HEARING AID SPECIALISTS
CHAPTER 122	CONTINUING EDUCATION FOR HEARING AID SPECIALISTS
CHAPTER 123	PRACTICE OF HEARING AID DISPENSING
CHAPTER 124	DISCIPLINE FOR HEARING AID SPECIALISTS

CHAPTER 121

LICENSURE OF HEARING AID SPECIALISTS

[Prior to 5/29/02, see 645—120.2(154A) to 120.6(154A) and 120.10(154A)]

645—121.1(154A) Definitions. For purposes of these rules, the following definitions apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of hearing aid specialists.

“*Dispense*” or “*sell*” means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or hearing aid specialist, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Hearing aid specialist*” means any person engaged in the fitting, dispensing and sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board. These rules are not intended to regulate unlicensed people who sell, dispense, market, use, distribute, or provide customer support to over-the-counter hearing aids, as regulated by the U.S. food and drug administration.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*License*” means a license issued by the state to a hearing aid specialist.

“*Licensee*” means any person licensed to practice as a hearing aid specialist in the state of Iowa.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice as a hearing aid specialist to an applicant who is or has been licensed in another state.

“*National examination*” means the standardized licensing examination of the International Hearing Society (IHS) or its successor organization.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—121.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C). Once the license is reinstated, the licensee may apply for active status.

“*Temporary permit*” means a permit issued while the applicant is in training to become a licensed hearing aid specialist.

“*Trainee*” means the holder of a temporary permit.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.2(154A) Temporary permits.

121.2(1) The applicant will submit a completed online application and pay the nonrefundable licensure fee specified in rule 645—5.7(147,154A). The application will be accompanied by a statement from the employer, which includes the following information:

- a. The type of supervision to be provided to the trainee;
- b. A list of the subjects to be covered;
- c. The books and other training materials to be used for training; and
- d. An outline of the training program to prepare the trainee for examination.

121.2(2) A temporary permit is valid for one year and shall not be renewable.

121.2(3) The board reserves the right to deny an application for a temporary permit or rescind a temporary permit once issued.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.3(154A) Supervision requirements.

121.3(1) The supervisor(s) of temporary permit holders will:

- a. Have a current hearing aid specialist license valid for the preceding 24 months;
- b. Have two years of actual experience in testing, fitting, and dispensing of hearing aids;
- c. Supervise no more than three trainees at the same time;
- d. Be responsible for training the temporary permit holder;
- e. For the first 90 days, provide a minimum of 20 hours of direct supervision;
- f. Provide direct supervision for any client activity that would require dispensing of hearing aids, including evaluation, selection, fitting or selling of hearing aids in the first 90 days;
- g. Evaluate the audiograms and determine which hearing aid and ear mold will best compensate for hearing loss;
- h. Cosign all audiometric evaluations and contracts processed by the trainee for the duration of the temporary permit;
- i. Submit, on a board-approved form, a supervision report for trainees prior to taking the board-approved examination. A supervision report is required each time the temporary permit holder submits a request to take the examination; and
- j. Notify the board within 15 days of the termination of the holder of a temporary permit.

121.3(2) A trainee with a temporary permit will notify the board in writing within ten days of an interruption of training due to loss of supervision and within 30 days, obtain a replacement supervisor for continuance of the training period. A statement will be signed by each supervisor.

121.3(3) If a statement by the replacement supervisor is not submitted, the trainee will revert to new trainee status.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.4(154A) Requirements for initial licensure. The following criteria applies to licensure:

121.4(1) The applicant will submit a completed online application and pay the nonrefundable licensure fee specified in rule 645—5.7(147,154A).

121.4(2) The applicant will provide verification of passing one of the following examinations:

- a. The national examination through the International Hearing Society. The applicant may not take the national test through IHS more than six times without board approval.
- b. The Praxis Examination in audiology through the Educational Testing Service.

121.4(3) Applicants who hold a temporary permit are required to submit a supervisory report in accordance with paragraph 121.3(1) “i.”

121.4(4) An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a. Licensee’s name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

121.4(5) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

121.4(6) Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed unless requested in writing by the candidate.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.5(154A) Licensure by endorsement.

121.5(1) Applicants who have been a licensed hearing aid specialist under the laws of another jurisdiction may apply for licensure by endorsement by submitting the following:

- a. Verification the applicant meets the requirements of rule 645—121.4(154A);

- b.* Evidence of licensure requirements that are similar to those required in Iowa;
- c.* Official verification of one of the following:
 - (1) A passing score on the national examination determined by the International Hearing Society;
 - (2) A passing score on an examination that the board determines is equivalent to the national examination; or
 - (3) Current certification from the National Board for Certification in Hearing Instrument Sciences; and
- d.* Evidence of:
 - (1) Completing a minimum of 32 continuing education hours within the 24 months prior to application; or
 - (2) Continuing education certificates that verify that the minimum hours of continuing education required by a state(s) in which the licensee is currently licensed have been met.

121.5(2) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.6(154A) Display of license. Hearing aid specialists will display their original licenses in a conspicuous public place at the primary site of practice.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.7(154A) License renewal.

121.7(1) The biennial license renewal period for a hearing aid specialist license will begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

121.7(2) A licensee applying for renewal will:

a. Meet the continuing education requirements of rule 645—122.2(154A) and the mandatory reporting requirements of subrule 121.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

121.7(3) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.7(5). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

121.7(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children, dependent adults or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training relating to the identification reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in rule 645—122.2(154A).

121.7(5) A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

121.7(6) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee will:

121.8(1) Submit a completed online reactivation application and payment of the nonrefundable application fee.

121.8(2) Provide verification of current competence to practice as a hearing aid specialist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant will provide the following:

(1) Verification of the license(s) from the jurisdiction in which the applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status and any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from the jurisdiction in which the applicant has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status and any disciplinary action taken against the license; and

(2) Verification of completion of 48 hours of continuing education within two years of application for reactivation.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

645—121.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as a hearing aid specialist in this state.

[ARC 7817C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 154A and 272C.

[Filed 5/8/02, Notice 3/6/02—published 5/29/02, effective 7/3/02]

[Filed 8/14/03, Notice 5/28/03—published 9/3/03, effective 10/8/03]

[Filed 8/5/05, Notice 5/25/05—published 8/31/05, effective 10/5/05][◇]

[Filed 12/11/08, Notice 9/24/08—published 1/14/09, effective 2/18/09]

[Filed ARC 9424B (Notice ARC 9317B, IAB 12/29/10), IAB 3/9/11, effective 4/13/11]

[Filed ARC 1005C (Notice ARC 0792C, IAB 6/12/13), IAB 9/4/13, effective 10/9/13]

[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

[Filed ARC 3559C (Notice ARC 3409C, IAB 10/25/17), IAB 1/3/18, effective 2/7/18]

[Filed ARC 5069C (Notice ARC 4786C, IAB 12/4/19), IAB 7/1/20, effective 8/5/20]

[Filed ARC 5756C (Notice ARC 5445C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]

[Filed ARC 6998C (Notice ARC 6649C, IAB 11/16/22), IAB 4/19/23, effective 5/24/23]

[Filed ARC 7817C (Notice ARC 7483C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

CHAPTER 122
CONTINUING EDUCATION FOR HEARING AID SPECIALISTS

645—122.1(154A) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules.

“*License*” means a license issued by the state to a hearing aid specialist.

“*Licensee*” means any person licensed to practice as a hearing aid specialist in the state of Iowa.
[ARC 7818C, IAB 4/17/24, effective 5/22/24]

645—122.2(154A) Continuing education requirements.

122.2(1) The biennial continuing education compliance period extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid specialist in this state is required to complete a minimum of 24 hours of continuing education. A minimum of two hours will be in the content areas of Iowa hearing aid specialist law and rules, or ethics. Continuing education hours cannot be carried over to the next biennium.

122.2(2) Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

122.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

122.2(4) The licensee is responsible for the cost of continuing education.
[ARC 7818C, IAB 4/17/24, effective 5/22/24]

645—122.3(154A,272C) Standards.

122.3(1) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;
- b. Is conducted by individuals who have specialized education, training and experience in the subject matter of the program;
- c. Fulfills stated program goals, objectives, or both; and
- d. Provides proof of attendance including:
 - (1) Date, place, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

122.3(2) Specific criteria. Continuing education hours of credit may be obtained by completing the following in person or virtually:

a. Academic coursework if the coursework is offered by an accredited postsecondary educational institution. The maximum number of continuing education hours of credit for academic coursework per biennium is 15 hours with:

b. 1 academic semester hour = 15 continuing education hours; and 1 academic quarter hour = 10 continuing education hours.

c. A maximum of four hours of credit may be obtained by independent study. Independent study hours are subject to the requirements stated in the rules in this chapter and in 645—Chapter 4.

d. Attending programs or conferences or business, technical, or professional seminars that enhance a licensee's ability to provide quality hearing health care services.

e. Mandatory reporter training as specified in 645—subrule 121.9(4). Hours reported for credit shall not exceed the hours required for compliance.

[ARC 7818C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 154A.

[Filed 8/18/00, Notice 5/17/00—published 9/6/00, effective 10/11/00]

[Filed 5/8/02, Notice 3/6/02—published 5/29/02, effective 7/3/02]

[Filed 8/5/05, Notice 5/25/05—published 8/31/05, effective 10/5/05][◇]

[Filed 12/11/08, Notice 9/24/08—published 1/14/09, effective 2/18/09]

[Filed ARC 9424B (Notice ARC 9317B, IAB 12/29/10), IAB 3/9/11, effective 4/13/11]

[Filed ARC 1005C (Notice ARC 0792C, IAB 6/12/13), IAB 9/4/13, effective 10/9/13]

[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

[Filed ARC 3559C (Notice ARC 3409C, IAB 10/25/17), IAB 1/3/18, effective 2/7/18]

[Filed ARC 7818C (Notice ARC 7484C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

CHAPTER 123
PRACTICE OF HEARING AID DISPENSING

645—123.1(154A) Definitions. For the purposes of these rules, the following definitions apply:

“*Health history*” means a series of questions pertaining to all of the following: client hearing needs and expectations, communication issues, otological conditions, medications, and previous amplification.

“*Hearing aid fitting*” means any of the following: the measurement of human hearing by any means for the purpose of selections, adaptations, and sales of hearing aids, and the instruction and counseling pertaining thereto, and demonstration of techniques in the use of hearing aids, and the making of earmold impressions as part of the fitting of hearing aids.

“*Sales receipt*” means a written record that is provided to a person who purchases a hearing aid. The sales receipt must be in compliance with these rules and be signed by the purchaser and the licensed hearing aid specialist. The requirements for the sales receipt may be found in rule 645—123.3(154A). [ARC 7819C, IAB 4/17/24, effective 5/22/24]

645—123.2(154A) Requirements prior to sale of a hearing aid.

123.2(1) Except as otherwise stated in these rules, no hearing aid shall be sold to an individual 18 years of age or older unless the individual:

- a. Provides a health history to a licensed hearing aid specialist;
- b. Presents a physician statement verifying that a medical evaluation, preferably by a physician specializing in diseases of the ear, has been done within the previous six months and stating the individual’s hearing loss, and that the individual may benefit from a hearing aid. In lieu of this requirement, the individual may verify in writing that the individual has been advised to obtain a medical evaluation by a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician, and that the individual chooses to waive said evaluation; and
- c. Is given a hearing examination that utilizes appropriate established procedures and instrumentation for the measurement of hearing and the fitting of hearing aids and that includes but is not limited to an assessment of the following: air conduction, bone conduction, masking capability, speech reception thresholds, speech discrimination, uncomfortable loudness levels (UCL), and most comfortable levels (MCL).

123.2(2) Any medical evaluation completed by a licensed physician requires all of the following prior to the sale of a hearing aid to an individual: receipt of the physician statement and clearance for amplification; and completion by the licensed hearing aid specialist of a current written health history and hearing examination that includes all of the procedures required in these rules, unless the physician order specifies otherwise. In the event an audiogram is provided by the physician, this testing requirement is waived. All records provided to the licensed hearing aid specialist will be maintained in the individual’s records in accordance with the recordkeeping requirements in these rules.

123.2(3) Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid specialist or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid specialist or person holding a temporary permit will, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual should consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

- a. Visible congenital or traumatic deformity of the ear.
- b. History of, or active drainage from the ear within the previous 90 days.
- c. History of sudden or rapidly progressive hearing loss within the previous 90 days.
- d. Acute or chronic dizziness.
- e. Unilateral hearing loss of sudden or recent onset within the previous 90 days. Significant air-bone gap (greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average).

f. Obstruction of the ear canal by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

123.2(4) Testing is not required in cases in which replacement hearing aids of the same make or model are sold within one year of the original sale, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

123.2(5) Except as otherwise provided in these rules, for individuals younger than 18 years of age, all of the requirements stated in these rules are applicable. In addition, the following are required:

a. Written authorization of a parent or legal guardian consenting to the services covered in these rules, and

b. An original signature on all documents required by law or these rules to be signed, including all sales transactions and receipts, required notifications, and warranty agreements.

123.2(6) For individuals 12 years of age or younger, all of the requirements stated in these rules are applicable. In addition, the parent or legal guardian must first present a written, signed recommendation for a hearing aid from a licensed physician specializing in otolaryngology. The recommendation must have been made within the preceding six months. In the event of a lost or damaged hearing aid, a replacement of an identical hearing aid may be provided within one year, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

[ARC 7819C, IAB 4/17/24, effective 5/22/24]

645—123.3(154A) Requirements for sales receipt. Upon sale of a hearing aid device, the licensee shall provide to the person a sales receipt, which will include the following:

1. Licensee's signature.
2. Licensee's business address.
3. Licensee's license number.
4. Client signature and address.
5. Make, model, and serial number of the hearing aid furnished.
6. Statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, if that is the fact.

7. Full terms of sale, including:

- The date of sale;
- Specific warranty terms, including whether any extended warranty is available through the manufacturer;
- Specific return policy; and
- Whether any trial period is available.

8. The following statement in type no smaller than the largest used in the body copy portion of the receipt: "The purchaser has been advised that any examination or representation made by a licensed hearing aid specialist in connection with the fitting or selection and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice."

[ARC 7819C, IAB 4/17/24, effective 5/22/24]

645—123.4(154A) Requirements for recordkeeping. A licensee shall keep and maintain records in the licensee's office or place of business at all times, and each such record shall be kept and maintained for a seven-year period.

123.4(1) The records for each person will include:

- a.* A complete record of each test performed and the results of the test.
- b.* A copy of any written recommendations.
- c.* A copy of medical clearances or waivers.
- d.* A copy of the written sales receipt.
- e.* A copy of terms of sale, including any warranty. A record of any adjustments or services provided on the hearing aid device, including whether such services were provided under warranty or other agreement.

f. A notation that the client consented, either verbally or in writing, to a service or services provided through a telehealth appointment, if applicable.

123.4(2) No less than 30 days prior to closure of a licensee's business, the licensee will provide written notification to clients of the location at which records will be maintained for a period of no less than 30 days following closure and the procedure to obtain those records. The licensee may arrange the transfer of records to another licensee for the purpose of maintenance of the records, provided that all contractual agreements have been satisfied.

[ARC 7819C, IAB 4/17/24, effective 5/22/24]

645—123.5(154A) Telehealth appointments. A licensee may conduct a telehealth appointment so long as the services are provided in accordance with this rule.

123.5(1) A "telehealth appointment" is one wherein the licensee provides testing or adjustment services to a client using technology where the hearing aid specialist and the client are not at the same physical location during the appointment.

123.5(2) Conducting a telehealth appointment with a client who is physically located in Iowa during the appointment, regardless of the location of the hearing aid specialist, requires Iowa licensure.

123.5(3) When conducting a telehealth appointment, a licensee will utilize technology that is secure, HIPAA-compliant (Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat 1936), and that includes, at a minimum, audio and video equipment that allows for two-way, real-time interactive communication between the licensee and the client. The licensee may use non-real-time technologies to prepare for an appointment or to communicate with clients between appointments.

123.5(4) A licensee who conducts a telehealth appointment will be held to the same standard of care as a licensee who provides in-person services. A licensee will not utilize a telehealth appointment if the standard of care for the particular service cannot be met using telehealth technology.

123.5(5) Prior to the first telehealth appointment with a client, the licensee will obtain informed consent from the client that is specific to the service or services that will be provided in the telehealth appointment. The informed consent will specifically inform the client of, at a minimum, the following:

- a.* The risks and limitations of the use of technology to the specific service;
- b.* The potential for unauthorized access to protected health information; and
- c.* The potential for disruption of technology during a telehealth appointment.

123.5(6) A licensee will only conduct a telehealth appointment if the licensee is competent to provide the particular service using telehealth technology. A licensee's competence to provide a particular service using telehealth technology will be established by the licensee's education, training, and experience.

123.5(7) A licensee who conducts a telehealth appointment will note in the client's record that the service or services were provided through a telehealth appointment.

[ARC 7819C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 154A.

[Filed ARC 9424B (Notice ARC 9317B, IAB 12/29/10), IAB 3/9/11, effective 4/13/11]

[Filed ARC 1005C (Notice ARC 0792C, IAB 6/12/13), IAB 9/4/13, effective 10/9/13]

[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

[Filed ARC 3559C (Notice ARC 3409C, IAB 10/25/17), IAB 1/3/18, effective 2/7/18]

[Filed ARC 5939C (Notice ARC 5554C, IAB 4/7/21), IAB 10/6/21, effective 11/10/21]

[Filed ARC 7819C (Notice ARC 7485C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 124
DISCIPLINE FOR HEARING AID SPECIALISTS
[Prior to 5/29/02, see 645—120.11(272C)]

645—124.1(154A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—124.3(154A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

124.1(1) Failure to comply with the current Code of Ethics of the International Hearing Society (2023). The board hereby adopts by reference the current Code of Ethics of the International Hearing Society, available at www.ihsinfo.org.

124.1(2) Advertising that hearing testing or hearing screening is a medical examination used to diagnose or refer.

124.1(3) Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid will not be sold without adequate diagnostic testing and evaluation using established procedures to assess hearing needs as defined in 645—Chapter 123. Testing equipment will be calibrated to current standards at least annually or more often if necessary. The distributor will keep with the testing equipment a certificate indicating the date of calibration.

[ARC 7820C, IAB 4/17/24, effective 5/22/24]

This rule is intended to implement Iowa Code chapters 147, 154A and 272C.

[Filed 5/8/02, Notice 3/6/02—published 5/29/02, effective 7/3/02]

[Filed 8/14/03, Notice 5/28/03—published 9/3/03, effective 10/8/03]

[Filed 8/5/05, Notice 5/25/05—published 8/31/05, effective 10/5/05]

[Filed 10/31/05, Notice 8/31/05—published 11/23/05, effective 12/28/05]

[Filed 4/25/06, Notice 3/1/06—published 5/24/06, effective 6/28/06]

[Filed 12/11/08, Notice 9/24/08—published 1/14/09, effective 2/18/09]

[Filed ARC 9424B (Notice ARC 9317B, IAB 12/29/10), IAB 3/9/11, effective 4/13/11]¹

[Editorial change: IAC Supplement 4/20/11]

[Filed ARC 0032C (Notice ARC 9800B, IAB 10/5/11), IAB 3/7/12, effective 4/11/12]

[Filed ARC 1005C (Notice ARC 0792C, IAB 6/12/13), IAB 9/4/13, effective 10/9/13]

[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

[Filed ARC 3559C (Notice ARC 3409C, IAB 10/25/17), IAB 1/3/18, effective 2/7/18]

[Filed ARC 5756C (Notice ARC 5445C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]

[Filed ARC 7820C (Notice ARC 7486C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

¹ April 13, 2011, effective date of 124.2(6) delayed 70 days by the Administrative Rules Review Committee at its meeting held April 11, 2011.

PSYCHOLOGISTS

CHAPTER 240	LICENSURE OF PSYCHOLOGISTS
CHAPTER 241	CONTINUING EDUCATION FOR PSYCHOLOGISTS
CHAPTER 242	DISCIPLINE FOR PSYCHOLOGISTS
CHAPTER 243	PRACTICE OF PSYCHOLOGY
CHAPTER 244	PRESCRIBING PSYCHOLOGISTS

CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*ASPPB*” means the Association of State and Provincial Psychology Boards.

“*Board*” means the board of psychology.

“*Certified health service provider in psychology*” means a person who works in a clinical setting, who is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“*Clinical experience*” means the provision of health services in psychology by the applicant to individuals or groups of clients/patients. Clinical experience does not include teaching or research performed in an academic setting.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another jurisdiction.

“*Mandatory training*” means the requirements found in Iowa Code section 232.69.

“*National examination*” means the Examination for Professional Practice in Psychology (EPPP).

“*Provisional license*” means a license issued to a person who is completing a predoctoral internship or postdoctoral residency under supervision in order to satisfy the requirements for licensure.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—240.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.2(154B) Requirements for initial psychology licensure. The following criteria shall apply to licensure:

240.2(1) Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

240.2(2) Except as otherwise stated in these rules, no application will be considered by the board until:

a. Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

b. Satisfactory evidence of the candidate's qualifications has been supplied in writing on the prescribed forms by the candidate's supervisors.

240.2(3) An applicant shall successfully pass the national examination.

240.2(4) The applicant shall have the national examination score sent directly from the ASPPB to the board.

240.2(5) Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.3(154B) Educational qualifications. An applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

240.3(1) At the time of an applicant's graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

(3) Designated by the ASPPB/National Register; or

b. The applicant holds current board certification from the American Board of Professional Psychology; or

c. The applicant possesses a postdoctoral respecialization certificate from a program accredited by the American Psychological Association.

240.3(2) Foreign-trained psychologists who possess a doctoral degree in psychology and who do not meet the requirements of subrule 240.3(1) will:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Psychologists, 1200 New York Avenue NW, Suite 800, Washington, D.C. 20005, telephone 202.783.7663, website www.nationalregister.org, or by an evaluation service with membership in the National Association of Credential Evaluation Services at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate will bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in subrule 240.3(1).

b. Submit evidence of meeting all other requirements for licensure stated in these rules.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.4(154B) Examination requirements. An applicant will pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant will:

a. Meet all requirements of subrules 240.2(1) and 240.2(2); and

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology verifying completion of a doctoral degree in psychology in accordance with rule 645—240.3(154B).

240.4(2) The EPPP passing score shall be utilized as the Iowa passing score.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.5(154B) Postdoctoral residency.

240.5(1) The postdoctoral residency may begin after all academic requirements for the doctoral degree, including completion of the predoctoral internship, have been completed. The postdoctoral residency shall consist of a minimum of 1,500 hours that are completed in no less than ten months.

240.5(2) During the postdoctoral residency, the supervisee will competently apply the principles of psychology under the supervision of a licensed psychologist who is actively licensed in the jurisdiction where the supervision occurs in accordance with the following:

a. The supervisee and supervisor will complete a supervision plan using the form provided by the board. The supervision plan must be submitted to the board if the supervisee is applying for or utilizing a provisional license.

b. A supervisor will not have more than three concurrent full-time supervisees or the equivalent in part-time supervisees. Full-time is defined as 40 hours per week.

c. The supervisee and supervisor will meet individually in person or via videoconferencing during each week in which postdoctoral residency hours are accrued, for no less than a total of 45 hours during the postdoctoral residency. Group supervision hours cannot count toward the 45 hours of individual supervision required.

d. The supervisor will provide supervision at all times, which means the supervisor will be readily available on site, or via electronic or telephonic means, at all times when the supervisee is providing services so that the supervisee may contact the supervisor for advice, assistance, or instruction. A supervisor will identify one or more licensed mental health providers who can be contacted for advice, assistance, or instruction during times in which the supervisor will not be readily available.

e. The supervisee and supervisor will have a crisis plan in place any time the supervisee is providing services and the supervisor is not on site in the same physical setting as the supervisee.

f. The supervisor will establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

g. The supervisor will provide training that is appropriate to the functions to be performed. The supervisee shall have the background, training, and experience that is appropriate to the functions performed. The supervisor shall not permit the supervisee to engage in any psychological practice that the supervisor cannot perform competently.

h. The supervisor and supervisee will ensure clients are informed regarding the supervisee's status and the sharing of information between the supervisee and supervisor.

i. The supervisor will have reasonable access to the clinical records corresponding to the work being supervised. The supervisor will countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervisor.

j. All services will be offered in the name of the supervisor. The supervisee and supervisor will ensure that the supervisee uses a title in accordance with rule 645—240.13(154B,147).

k. The fee schedule and receipt of payment will remain the sole domain of the supervisor or employing agency.

l. The supervisor will maintain an ongoing record of supervision that details the types of activities in which the supervisee is engaged, the level of the supervisee's competence in each, and the type and outcome of all procedures.

m. The supervisor is responsible for determining the competency of the work performed by the supervisee and must honestly and accurately complete the supervision report at the conclusion of providing supervision.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.6(154B) Certified health service provider in psychology.

240.6(1) Requirements for the health service provider in psychology. The applicant shall:

a. Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 240.6(2) and at least one year of clinical experience in a health service setting that meets the requirements for postdoctoral residency stated in rule 645—240.5(154B). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Psychologists to verify completion of the required clinical experience.

b. Submit a completed application and nonrefundable application fee along with supporting documentation. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

c. Renew the certificate biennially at the same time as the psychology license.

240.6(2) Requirements of the organized health service training program. Internship programs in professional psychology that are accredited by the American Psychological Association (APA) or the Canadian Psychological Association (CPA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not accredited by the APA or the CPA, or is not APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

a. Provides the intern with a planned, programmed sequence of training experiences.

b. Has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program and is actively licensed by the board of psychology in the jurisdiction in which the program exists.

c. Has two or more doctoral-level psychologists on the staff who serve as supervisors, at least one of whom is actively licensed by the board of psychology in the jurisdiction in which the program exists.

d. Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.

e. Provides training in a range of psychological assessment and treatment activities conducted directly with recipients of psychological services.

f. Ensures that trainees have a minimum of 375 hours of direct patient contact.

g. Includes a minimum of two hours per week (regardless of whether the internship is completed in one year or two years) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved, seminars dealing with clinical issues, cotherapy with a staff person including discussion, group supervision, and additional individual supervision.

h. Has training that is at the postclerkship, postpracticum, and postexternship level.

i. Has a minimum of two interns at the internship level of training during any period of training.

j. Designates for internship-level trainees titles such as “intern,” “resident,” “fellow,” or other designation of trainee status.

k. Has a written statement or brochure that describes the goals and content of the internship, states clear expectations for quantity and quality of trainees’ work and is made available to prospective interns.

l. Provides a minimum of 1,500 hours of training experience that shall be completed in no less than 12 months within a 24-consecutive-month period.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.7(154B) Requirements for provisional license.

240.7(1) Predoctoral internship. An applicant for a provisional license for purposes of completing a predoctoral internship shall provide the following:

a. Submit a completed provisional application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

b. A copy of the applicant’s acceptance letter for the predoctoral internship.

c. Identification of the training director and the training director’s contact information.

d. Evidence that the applicant is enrolled in an educational program that meets the requirements of rule 645—240.3(154B).

240.7(2) Postdoctoral residency. An applicant for a provisional license for purposes of completing a postdoctoral residency shall provide the following:

a. Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

b. Official copies of academic transcripts sent directly from the school establishing that the requirements stated in rule 645—240.3(154B) are met.

c. A completed supervision plan on the prescribed board form, signed by the applicant's supervisors. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

240.7(3) Duration. The provisional license is effective for two years from the date of issuance. A provisional license issued for purposes of completing a predoctoral internship can be used for purposes of completing a postdoctoral residency until the provisional license expires. The provisional licensee shall submit a completed supervision plan on the prescribed board form, signed by the licensee's supervisors, prior to beginning the postdoctoral residency. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form. A provisional license may be renewed one time for a period of two years upon submission of the following:

- a.* A provisional license renewal application;
- b.* A provisional license renewal fee; and
- c.* A current supervision plan as required in these rules.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.8(147) Licensure by endorsement. An applicant who possesses a doctoral degree in psychology and has been a licensed psychologist at the doctoral level under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.8(1) Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

240.8(2) Provides verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least three years of an independent license as described in subrule 240.8(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a.* Licensee's name;
- b.* Date of initial licensure;
- c.* Current licensure status; and
- d.* Any disciplinary action taken against the license.

240.8(3) Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the ASPPB, or verification of a doctoral degree in psychology and an independent license to practice psychology in another jurisdiction for at least three years with no disciplinary history. Except as stated in subrule 240.3(2), applicants providing certification or verification are deemed to have met the requirements stated in paragraphs 240.8(4) "a" and "b." The board may license by endorsement any other applicant who:

a. Provides the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

b. Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

(1) Provides:

1. Official copies of academic transcripts that have been sent directly from the school; and
2. Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the jurisdiction in which the applicant is currently licensed or equivalent documentation of supervision; or

(2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

1. Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Psychologists.
2. Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

240.8(4) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.9(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall complete and submit the application for the exemption to licensure and the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

240.9(1) The applicant shall provide a summary of the intent to practice and a verification of the license in the applicant's jurisdiction of residence, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

240.9(2) The exemption must be issued prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.10(147) License renewal.

240.10(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

240.10(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.10(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

240.10(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 240.10(4) "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 240.13(4) "e."

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 240.13(4) “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).

f. The board may select licensees for audit of compliance with the requirements in paragraphs 240.10(4) “a” to “e.”

240.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

240.10(6) A person licensed to practice as a psychologist shall keep the person’s license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

240.10(7) Late renewal.

a. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.16(3).

b. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

240.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.11(147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.11(1) Submit a reactivation application.

240.11(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

240.11(3) Provide verification of the license from the jurisdiction in which the applicant has most recently been licensed sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

a. Licensee’s name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

240.11(4) Provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—240.14(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.13(154B,147) Title designations.

240.13(1) Students who are enrolled in an education program that satisfies the requirements of subrule 240.3(1) and who are completing the predoctoral internship may be designated “psychology intern” or “intern in psychology.”

240.13(2) Applicants for licensure who have met educational requirements and who are completing the postdoctoral residency to be eligible for licensure may be designated “psychology resident,” “resident in psychology,” “psychology postdoctoral fellow,” or “postdoctoral fellow in psychology.” The designation of “resident” shall not be used except during a postdoctoral residency that meets the requirements of rule 645—240.6(154B).

240.13(3) Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident,” “intern,” or “fellow” designation.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

645—240.14(154B) Psychologists’ supervision of persons other than postdoctoral residents in a practice setting.

240.14(1) This rule applies when a psychologist is supervising individuals who are not licensed or who are provisionally licensed and completing the predoctoral internship. This rule does not apply to supervision of an individual completing a postdoctoral residency in accordance with rule 645—240.6(154B), regardless of whether the individual is provisionally licensed or not.

240.14(2) The supervising psychologist will:

a. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

b. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work will be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors will also be available for emergency consultation and intervention.

c. Provide work assignments that are commensurate with the skills of the supervisee. All procedures will be planned in consultation with the supervisor.

d. Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working off site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider on site whenever the supervisee is working for purposes of providing emergency consultation.

e. Make public announcement of services and fees; contact with laypersons or the professional community will be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

f. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person’s status and information regarding the person’s qualifications and functions.

g. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client’s, the supervisee’s or the supervisor’s request.

h. Provide for setting and receipt of payment that will remain the sole domain of the employing agency or supervising psychologist.

i. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

j. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description will be made available to representatives of the board and service recipients upon request.

k. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

l. Countersign all written reports, clinical records and clinical communications as “Reviewed and Approved” by the supervising psychologist.

[ARC 7821C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 147, and 272C.

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]

[Filed 2/15/02, Notice 12/12/01—published 3/6/02, effective 4/10/02]

[Filed 8/16/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]

[Filed 8/27/03, Notice 5/28/03—published 9/17/03, effective 10/22/03]

[Filed 2/10/04, Notice 11/26/03—published 3/3/04, effective 4/7/04]

[Filed 11/12/04, Notice 7/21/04—published 12/8/04, effective 1/12/05]

[Filed 11/12/04, Notice 9/1/04—published 12/8/04, effective 1/12/05]

[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05][◇]

[Filed 11/9/05, Notice 8/31/05—published 12/7/05, effective 1/11/06]

[Filed 2/3/06, Notice 12/7/05—published 3/1/06, effective 4/5/06]

[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

[Filed ARC 9937B (Notice ARC 9673B, IAB 8/10/11), IAB 12/28/11, effective 2/1/12]

[Filed ARC 1029C (Notice ARC 0834C, IAB 7/10/13), IAB 9/18/13, effective 10/23/13]

[Filed ARC 1834C (Notice ARC 1730C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

[Filed ARC 5073C (Notice ARC 4934C, IAB 2/26/20), IAB 7/1/20, effective 8/5/20]

[Filed ARC 5225C (Notice ARC 5002C, IAB 3/25/20), IAB 10/7/20, effective 11/11/20]

[Filed ARC 5777C (Notice ARC 5451C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]

[Filed ARC 5905C (Notice ARC 5617C, IAB 5/5/21), IAB 9/8/21, effective 10/13/21]

[Filed ARC 6938C (Notice ARC 6769C, IAB 12/28/22), IAB 3/8/23, effective 4/12/23]

[Filed ARC 7821C (Notice ARC 7288C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS

645—241.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of psychology.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice independently as a psychologist in the state of Iowa and does not include persons with provisional licenses.

“*Practice of psychology*” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

[ARC 7822C, IAB 4/17/24, effective 5/22/24]

645—241.2(272C) Continuing education requirements.

241.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

241.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will need to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

241.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours will be in accordance with these rules.

241.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

241.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

241.2(6) No hours of continuing education are required to renew a provisional license.

[ARC 7822C, IAB 4/17/24, effective 5/22/24]

645—241.3(154B,272C) Standards.

241.3(1) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters that integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

241.3(2) Specific criteria.

a. For the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members, a maximum of two of these hours may be obtained by providing service as a member of the board as follows:

- (1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or
- (2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.13(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 241.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

- (5) Completing home study courses for which a certificate of completion is issued.
- (6) Completing electronically transmitted courses for which a certificate of completion is issued.
- (7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 241.3(1). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

[ARC 7822C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 154B.

[Filed 9/1/00, Notice 7/12/00—published 9/20/00, effective 10/25/00]

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]

[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05][◇]

[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

[Filed ARC 1029C (Notice ARC 0834C, IAB 7/10/13), IAB 9/18/13, effective 10/23/13]

[Filed ARC 1834C (Notice ARC 1730C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

[Filed ARC 6938C (Notice ARC 6769C, IAB 12/28/22), IAB 3/8/23, effective 4/12/23]

[Filed 9/1/00, Notice 7/12/00—published 9/20/00, effective 10/25/00]

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]

[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05][◇]

[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

[Filed ARC 1029C (Notice ARC 0834C, IAB 7/10/13), IAB 9/18/13, effective 10/23/13]

[Filed ARC 1834C (Notice ARC 1730C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

[Filed ARC 6938C (Notice ARC 6769C, IAB 12/28/22), IAB 3/8/23, effective 4/12/23]

[Filed ARC 7822C (Notice ARC 7289C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

CHAPTER 242
DISCIPLINE FOR PSYCHOLOGISTS
[Prior to 7/11/01, see 645—Chapter 240]

645—242.1(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist and including amendments effective January 1, 2017, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's website at www.apa.org.

This rule is intended to implement Iowa Code chapters 147, 154B and 272C.

[ARC 7823C, IAB 4/17/24, effective 5/22/24]

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]

[Filed 8/27/03, Notice 5/28/03—published 9/17/03, effective 10/22/03]

[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05]

[Filed 11/9/05, Notice 8/31/05—published 12/7/05, effective 1/11/06]

[Filed 2/3/06, Notice 12/7/05—published 3/1/06, effective 4/5/06]

[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

[Filed ARC 9937B (Notice ARC 9673B, IAB 8/10/11), IAB 12/28/11, effective 2/1/12]

[Filed ARC 9945B (Notice ARC 9798B, IAB 10/5/11), IAB 12/28/11, effective 2/1/12]

[Filed ARC 5777C (Notice ARC 5451C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]

[Filed ARC 6938C (Notice ARC 6769C, IAB 12/28/22), IAB 3/8/23, effective 4/12/23]

[Filed ARC 7823C (Notice ARC 7290C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 243
PRACTICE OF PSYCHOLOGY

645—243.1(154B) Definitions.

“*APA*” means the American Psychological Association.

“*Clinical records*” means records created by a licensee regarding the observation and treatment of patients, such as progress notes, but does not include psychotherapy notes.

“*Examinee*” means a person who is the subject of a forensic examination for the purpose of informing a decision maker or attorney about the psychological functioning of that examinee.

“*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996 and related regulations promulgated thereunder.

“*Licensee*” or “*licensed*” means an individual with an active license to practice psychology, including a provisional license, or a certificate of exemption issued by the board.

“*Patient*” means an individual under the care of a licensee in a clinical role and is synonymous with the term client.

“*Personal representative*” means a person authorized to act on behalf of the patient in making health care-related decisions such as a parent or legal guardian, an individual with a health care power of attorney, an individual with a general power of attorney or durable power of attorney that includes the power to make health care decisions, or a court-appointed legal guardian.

“*Psychotherapy notes*” means notes recorded by a licensee documenting or analyzing the contents of a conversation during a private therapy session with a patient, or a group, joint, or family therapy session, that are maintained separately from the patient’s clinical records. “Psychotherapy notes” excludes medication prescription monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of any clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

“*Telepsychology*” means the provision of psychological services using telecommunication technologies.

“*Test data*” means raw and scaled scores, patient responses to test questions or stimuli, and notes and recordings concerning patient statements and behavior during an examination.

“*Test materials*” means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

[ARC 7824C, IAB 4/17/24, effective 5/22/24]

645—243.2(147,154B,272C) Purpose and scope. The purpose of this chapter is to set the minimum standards of practice for licensees practicing in Iowa. The practice of psychology is occurring in Iowa if the patient or examinee is located in Iowa. Licensees will ensure any interns or residents under supervision adhere to the minimum standards of practice and must comply with the requirements set forth in rule 645—240.9(154B). The APA Code of Ethics, published January 1, 2017, is applicable and enforceable to the extent it does not conflict with any standards of practice set forth in this chapter. A licensee may be disciplined for any violation of this chapter or the APA Code of Ethics.

[ARC 7824C, IAB 4/17/24, effective 5/22/24]

645—243.3(154B) Access to records.

243.3(1) *Clinical records generally.* When records are requested along with a signed release from the patient or the patient’s personal representative, a licensee will provide requested clinical records in a timely manner unless there is a ground for denial under HIPAA (Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, August 21, 1996, 110 Stat. 1936).

243.3(2) *Psychotherapy notes.* A licensee is not required to release psychotherapy notes in response to a signed release; if a licensee chooses to release psychotherapy notes, a signed release specifically authorizing the release of those notes will be provided.

243.3(3) *Substance use disorder treatment programs.* Licensees who practice in a federally assisted substance use disorder treatment program, also known as a part 2 program, are prohibited from

disclosing any information that would identify a patient as having a substance use disorder unless the patient provides written consent in compliance with part 2 requirements.

243.3(4) *Clinical records of minor patients.* A minor patient is a patient who is under the age of 18 and is not emancipated. A licensee is not required to release the clinical records of a minor patient to the minor's personal representative if releasing such records is not in the minor's best interest. When a minor patient reaches the age of 18, the clinical records belong to the patient.

243.3(5) *Clinical records of deceased patients.* A licensee will provide the clinical records of a deceased patient to the deceased patient's executor upon a written request accompanied by a copy of the patient's death certificate and a copy of the legal document identifying the requestor as the patient's executor.

243.3(6) *Forensic records.* A licensee will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

243.3(7) *Board.* A licensee shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A licensee is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

243.3(8) *Exceptions.* These rules do not apply when there is a legal basis for not disclosing requested information.

[ARC 7824C, IAB 4/17/24, effective 5/22/24]

645—243.4(154B) Psychological testing. A licensee may administer psychological tests and assessments to a patient or examinee if the licensee has appropriate training for any psychological test or assessment utilized and the test or assessment is scientifically founded.

243.4(1) *Use of proctors.* A licensee may delegate the administration of a standardized test, intelligence test, or objective personality assessment to an appropriately trained individual. The licensee is responsible for supervising any proctors.

243.4(2) *Release of test data.* A licensee will not provide test data to any person, with the exception that the test data with proper written release, may be disclosed to a licensed psychologist designated by the patient or examinee. A psychologist who receives test data in this manner may not further disseminate the test data.

243.4(3) *Release of test materials.* A licensee shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a psychological test to receive the records associated with the psychological testing of the subject. A licensee shall not disclose test materials in any administrative, judicial, or legislative proceeding.

[ARC 7824C, IAB 4/17/24, effective 5/22/24]

645—243.5(154B) Judicial proceedings. Prior to participating in a judicial proceeding, a licensee will become familiar with the rules governing the proceeding. A licensee will understand and clearly identify the licensee's role in the proceeding.

243.5(1) *Licensure.* A license to practice psychology in Iowa or an exemption from licensure is not required solely to testify as an expert witness in court, if the psychologist did not personally examine the examinee. A psychologist who personally examines an examinee located in Iowa for the purpose of providing an expert opinion is required to be licensed or exempt from licensure at the time of the evaluation.

243.5(2) *Custody evaluations.* A licensee who performs a child custody evaluation will comply with the APA Guidelines for Child Custody Evaluations in Family Law Proceedings published December 2010.

[ARC 7824C, IAB 4/17/24, effective 5/22/24]

645—243.6(154B) Telepsychology. A psychologist may practice telepsychology provided the following are met:

243.6(1) The psychologist must be licensed or be exempt from licensure in the jurisdiction where the patient or examinee is located.

243.6(2) Prior to initiating telepsychology with a new patient or examinee, a licensee will take reasonable steps to verify the identity and location of the patient or examinee.

243.6(3) A licensee will ensure informed consent for telepsychology includes a description of any limitations of services as a result of the technology utilized.

243.6(4) A licensee will gain competency in the use of a particular technology prior to utilizing it in practice. A licensee shall only use technologies that are secure and functioning properly.

243.6(5) A licensee will apply the same ethical and professional standards of care and professional practice that are required when providing in-person psychological services. If the same standard of care cannot be met with telepsychology, a licensee will not utilize telepsychology.

[ARC 7824C, IAB 4/17/24, effective 5/22/24]

645—243.7(154B) Records. A licensee will complete clinical records as soon as practicable to ensure continuity of services. All clinical records shall be completed within 30 days after the service or evaluation is complete unless there are significant extenuating circumstances. Clinical records and psychotherapy notes will be retained for at least seven years after the last date of service, or until at least three years after a minor reaches the age of 18, whichever is later. Forensic records will be completed and retained consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

[ARC 7824C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 147, 154B, and 272C.

[Filed ARC 5905C (Notice ARC 5617C, IAB 5/5/21), IAB 9/8/21, effective 10/13/21]

[Filed ARC 6938C (Notice ARC 6769C, IAB 12/28/22), IAB 3/8/23, effective 4/12/23]

[Filed ARC 7824C (Notice ARC 7291C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300	LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 301	PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 302	RESERVED
CHAPTER 303	CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 304	DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300
LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—300.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“*ABA*” means the American Board of Audiology.

“*ASHA*” means the American Speech-Language Hearing Association.

“*Assistant*” means an unlicensed person who works under the supervision of an Iowa-licensed speech pathologist or audiologist and meets the minimum requirements set forth in these rules.

“*Audiologist*” means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination, selection and use of appropriate hearing devices.

“*Board*” means the board of speech pathology and audiology.

“*Full-time*” means a minimum of 30 hours per week.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

“*License expiration date*” means December 31 of odd-numbered years.

“*On site*” means:

1. To be continuously on site and present in the department or facility where services are being provided;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—300.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

“*Speech pathologist*” means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, swallowing, fluency, voice, or language for the purpose of nonmedically evaluating, preventing,

ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.2(147) Requirements for licensure. The following criteria will apply to licensure:

300.2(1) Applicants will submit a completed online licensure application and pay the required fee.

300.2(2) The application will include:

- a. An official copy of a current ASHA certificate of clinical competence; or
- b. Verification of current ABA certification; or
- c. Submission of the following:

(1) Official copies of academic transcripts sent directly from the school to the board showing proof of completion of not less than 400 hours of supervised clinical training;

(2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master's degree, under the supervision of a licensed speech pathologist or audiologist or as a part of the doctoral degree; and

(3) Results of the Praxis Examination.

300.2(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

300.2(4) An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least five years of an independent license as described in subrule 240.10(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.3(147) Educational qualifications.

300.3(1) The applicant shall possess the following:

a. A master's degree from an accredited school, college or university with a major in speech pathology; or

b. A master's or doctoral degree from an accredited school, college or university with a major in audiology.

300.3(2) Foreign-trained speech pathologists and audiologists will provide an equivalency evaluation at the licensee's expense of the licensee's educational credentials by one of the following: International Education Research Foundation, Inc., Credentials Evaluation Service. The professional curriculum must be equivalent to that stated in these rules.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.4(147) Examination requirements. The examination required by the board will be the Praxis Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service. The applicant will make arrangements to take the Praxis Examination in speech pathology or audiology and pay all expenses associated with taking the examination. The applicant will have the examination scores sent directly to the board from the Educational Testing Service.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.5(147) Speech therapy and audiology compact. The rules of the speech therapy and audiology compact commission are incorporated by reference to Iowa Code section 147F.1. A speech

therapist or audiologist may practice speech therapy or audiology in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the speech pathology and audiology compact commission.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.6(147) Temporary clinical license. A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed at the discretion of the board. The license shall be designated “temporary clinical license in speech pathology” or “temporary clinical license in audiology.”

300.6(1) A speech pathology applicant will submit the following to the board:

- a. Evidence of supervision by a speech pathologist with an active, current Iowa license in good standing;
- b. A completed application form and the temporary clinical license fee;
- c. An official copy of the transcript sent directly from the school to the board;
- d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and
- e. Results of the Praxis Examination.

300.6(2) An audiology applicant or an applicant completing a doctoral externship must submit the following to the board:

- a. Evidence of supervision by an audiologist with an active, current Iowa license in good standing. The applicant completing an audiology doctoral externship must show evidence of on-site supervision;
- b. A completed application form and the temporary clinical license fee;
- c. An official copy of the transcript, sent directly from the school to the board;
- d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and
- e. Results of the Praxis Examination.

300.6(3) The plan for supervised clinical experience must be approved by the board before the applicant starts practice and shall:

- a. Include at least nine months of full-time clinical experience, or equivalent;
- b. Include supervision by an Iowa-licensed speech pathologist or audiologist, as appropriate. If the applicant is being supervised by more than one individual, each supervisor must submit a supervised clinical experience plan for approval. If there is a change in the supervised clinical experience plan at any time during the supervised clinical experience, the licensee must contact the board for approval within 30 days of the change;
- c. Be kept by the supervisor for two years from the last date of the clinical experience; and
- d. Include a completed supervised clinical experience report form that shall be submitted to the board of speech pathology and audiology upon the applicant’s successful completion of the nine months of full-time clinical experience. If the applicant was supervised by more than one individual, each supervisor must submit a supervised clinical experience report.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.7(147) Temporary permit.

300.7(1) A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology:

- a. For a period not to exceed three months;
- b. By submitting a letter to support the need for such a permit;
- c. By submitting documents to show that the applicant has substantially the same qualifications as required for licensure in Iowa;
- d. By submitting the documentation prior to the date the applicant intends to begin practice; and
- e. By submitting the temporary permit fee.

300.7(2) The applicant shall receive a final determination from the board regarding the application for a temporary permit.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.8(147) Use of assistants. A licensee will, in the delivery of professional services, utilize assistants only to the extent provided in these rules. Such assistants will use the title provided by these rules.

300.8(1) Duties.

a. Speech pathology assistant I. A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.

b. Speech pathology assistant II. A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.

c. Audiology assistant I. An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual's training.

d. Audiology assistant II. An audiology assistant II is trained specifically for a single task for screening.

300.8(2) Minimum requirements.

a. A speech pathology assistant I or II or audiology assistant I will satisfy the following minimum requirements:

(1) Reach the age of majority;

(2) Complete a high school education, or its equivalent; and

(3) Complete one of the following:

1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks that the assistant will be performing; or

2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.

b. An audiology assistant II will satisfy the following requirements:

(1) Reach the age of majority.

(2) Complete a high school education, or its equivalent.

(3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task that the assistant will be performing.

300.8(3) Utilization. Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

a. Documentation that the assistant meets minimum requirements;

b. A written plan of the activities and supervision that will be kept by the licensee supervising the assistant. This supervision will include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants will be supervised 10 percent of the time. At least half of that time will be direct on-site observation with the other portion provided as time interpreting results;

c. A listing of the facilities where the assistant will be utilized; and

d. A statement, signed by the licensee and the assistant, acknowledging the licensee and the assistant have read the rules pertaining to assistants.

300.8(4) Maximum number of assistants. A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

300.8(5) Supervisor responsibilities. A licensee who utilizes an assistant will have the following responsibilities:

a. To be legally responsible for the actions of the assistant in assigned duties with a client;

b. To make all professional decisions relating to the management of a client;

c. To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;

d. To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing direct observation and supervision of the activities of the assistant; and

e. To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.9(147) Licensure by endorsement.

300.9(1) The board may issue a license by endorsement to any applicant from the District of Columbia or another state, territory, province or foreign country who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction.

300.9(2) An applicant for licensure by endorsement will provide verification they meet the requirements of rule 645—300.2(147).

300.9(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.10(147) License renewal.

300.10(1) The biennial license renewal period for a license to practice speech pathology or audiology will begin on January 1 of an even-numbered year and end on December 31 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

300.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

300.10(3) A licensee seeking renewal will:

a. Meet the continuing education requirements of rule 645—303.2(147) and the mandatory reporting requirements of subrule 300.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

300.10(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children, dependent adults, or both in the scope of a licensee's professional practice will complete the applicable department of health and human services' training relating to the identification and reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in paragraphs 300.11(4) "a" and "b."

300.10(5) A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

300.10(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

300.10(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.20(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

300.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.11(17A,147,272C) License reactivation. To apply for reactivation of an inactive license:

300.11(1) Submit a completed reactivation application and pay the nonrefundable application fee.

300.11(2) Provide verification of current competence to practice speech pathology and audiology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 26 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 52 hours of continuing education within two years of application for reactivation; or

(3) Verification of passing the Praxis Examination in speech pathology or audiology within the last two years prior to application for reactivation.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

645—300.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing speech pathology and audiology in this state.

[ARC 7825C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 147 and 272C.

[Filed 2/2/77, Notice 12/29/76—published 2/23/77, effective 3/30/77]

[Filed emergency 8/14/81—published 9/2/81, effective 8/14/81]

[Filed 8/28/81, Notice 3/4/81—published 9/16/81, effective 10/21/81]

[Filed 10/22/82, Notice 8/18/82—published 11/10/82, effective 12/17/82]

[Filed 1/14/83, Notice 11/24/82—published 2/2/83, effective 3/11/83]

[Filed 6/15/83, Notice 4/13/83—published 7/6/83, effective 8/11/83]

[Filed emergency 11/1/83 after Notice 9/14/83—published 11/23/83, effective 11/1/83]

[Filed 1/21/85, Notice 11/21/84—published 2/13/85, effective 3/20/85]

[Filed 6/18/86, Notice 4/9/86—published 7/16/86, effective 8/20/86]

[Filed 7/29/88, Notice 3/23/88—published 8/24/88, effective 9/28/88]

[Filed 7/29/88, Notice 5/4/88—published 8/24/88, effective 9/28/88]

[Filed 6/9/89, Notice 2/8/89—published 6/28/89, effective 8/2/89]

[Filed 4/12/91, Notice 1/9/91—published 5/1/91, effective 6/5/91]

[Filed 8/1/91, Notice 5/1/91—published 8/21/91, effective 9/25/91]

[Filed 11/22/91, Notice 8/21/91—published 12/11/91, effective 1/15/92]

[Filed 1/29/93, Notice 9/30/92—published 2/17/93, effective 4/1/93]

[Filed 2/23/94, Notice 12/8/93—published 3/16/94, effective 4/22/94]
[Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]
[Filed 2/15/00, Notice 12/15/99—published 3/8/00, effective 4/12/00]
[Filed 11/9/00, Notice 9/20/00—published 11/29/00, effective 1/3/01]
[Filed 8/30/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]
 [Filed 5/9/02, Notice 4/3/02—published 5/29/02, effective 7/3/02]
 [Filed 8/14/03, Notice 5/28/03—published 9/3/03, effective 10/8/03]
[Filed 2/27/04, Notice 12/10/03—published 3/17/04, effective 4/21/04]
[Filed 8/22/05, Notice 6/8/05—published 9/14/05, effective 10/19/05][◊]
[Filed 12/22/08, Notice 10/22/08—published 1/14/09, effective 2/18/09]
[Filed ARC 8872B (Notice ARC 8639B, IAB 4/7/10), IAB 6/30/10, effective 8/4/10]
[Filed ARC 9947B (Notice ARC 9767B, IAB 10/5/11), IAB 12/28/11, effective 2/1/12]
 [Filed ARC 1397C (Notice ARC 1314C, IAB 2/5/14), IAB 4/2/14, effective 5/7/14]
[Filed ARC 3591C (Notice ARC 3410C, IAB 10/25/17), IAB 1/17/18, effective 2/21/18]
 [Filed ARC 4214C (Notice ARC 4035C, IAB 9/26/18), IAB 1/2/19, effective 2/6/19]
[Filed ARC 5161C (Notice ARC 4913C, IAB 2/12/20), IAB 8/26/20, effective 10/1/20]
[Filed ARC 5757C (Notice ARC 5457C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]
[Filed ARC 6999C (Notice ARC 6658C, IAB 11/16/22), IAB 4/19/23, effective 5/24/23]
[Filed ARC 7825C (Notice ARC 7468C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

[◊] Two or more ARCs

CHAPTER 301
PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—301.1(147) Telehealth visits. A licensee may provide speech pathology or audiology services to a patient utilizing a telehealth visit if the services are provided in accordance with the following:

301.1(1) “Telehealth visit” means the provision of speech pathology or audiology services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location during the appointment.

301.1(2) A licensee engaged in a telehealth visit will utilize technology that is secure and HIPAA-compliant (Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat 1936), and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an appointment or to communicate with a patient between appointments.

301.1(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person speech pathology or audiology services. A licensee will not utilize a telehealth visit if the standard of care for the particular speech pathology or audiology service cannot be met using technology.

301.1(4) Prior to the first telehealth visit, a licensee will obtain informed consent from the patient specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent will specifically inform the patient of the following:

- a.* The risks and limitations of the use of technology to provide speech pathology or audiology services;
- b.* The potential for unauthorized access to protected health information; and
- c.* The potential for disruption of technology during a telehealth visit.

301.1(5) A licensee will only provide speech pathology or audiology services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

301.1(6) A licensee will identify in the clinical record when speech pathology or audiology services are provided utilizing a telehealth visit.

301.1(7) Speech pathology or audiology services in Iowa through telephonic, electronic, or other means constitute the practice of speech pathology or audiology and require Iowa licensure, regardless of the location of the speech/language pathologist or audiologist.

This rule is intended to implement Iowa Code chapters 147 and 154F.

[ARC 7826C, IAB 4/17/24, effective 5/22/24]

[Filed ARC 5863C (Notice ARC 5556C, IAB 4/7/21), IAB 8/25/21, effective 9/29/21]

[Filed ARC 7826C (Notice ARC 7469C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 303
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS
AND AUDIOLOGISTS

645—303.1(147) Definitions. For the purpose of these rules, the following definitions will apply:

“AAA” means the American Association of Audiology.

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“ASHA” means the American Speech-Language Hearing Association.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of speech pathology and audiology.

“Continuing education” means an approved program/activity that is directly related to the sciences or contemporary clinical practice of audiology, speech-language pathology and speech-language-hearing science and whose content and focus are beyond the basic preparation required for entry into the professions.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“License” means license to practice.

“Licensee” means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

[ARC 7827C, IAB 4/17/24, effective 5/22/24]

645—303.2(147) Continuing education requirements.

303.2(1) The biennial continuing education compliance period will run concurrently with each two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, a person who is licensed to practice as a speech pathology or audiology licensee in this state will be required to complete a minimum of 26 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession. Continuing education hours do not carry over.

303.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

303.2(3) Hours of continuing education credit may be obtained by participation in an approved program or activity. Such programs and activities may take place individually or in group settings including in-person conferences, journal readings, teleconferences, videoconferences and online programs or activities as long as such programs and activities meet the criteria specified in the definition of continuing education in rule 645—303.1(147).

303.2(4) No hours of continuing education will be carried over into the next biennium except as stated for second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

303.2(5) The licensee is responsible for the cost of continuing education.

[ARC 7827C, IAB 4/17/24, effective 5/22/24]

645—303.3(147,272C) Standards.

303.3(1) General criteria. A continuing education program or activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education program or activity:

- a. Meets the definition of continuing education as defined in rule 645—303.1(147);

- b.* Is conducted by individuals who have specialized education, training and experience in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- c.* Fulfills state program goals, objectives, or both; and
- d.* Provides proof of attendance, including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

303.3(2) *Specific criteria.*

a. Subject matters that integrally relate to the practice of speech pathology or audiology or both that will be considered for approval are:

(1) Basic communication processes. Information (beyond the basic licensure requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information that would enable expansion of knowledge in the basic communication processes.

(2) Professional areas. Information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board will accept dysphagia courses provided by qualified instructors.

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions that apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; professional ethics; clinical supervision; counseling; and interviewing.

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. A licensee may elect to take the Praxis Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee will have the results of the examination sent to the board by the agency administering the examination.

b. A licensee may present professional programs that meet the criteria in this rule. Two hours of credit will be allowed for each hour of newly developed presentation material. A maximum of 16 hours may be obtained per biennium. A course schedule or brochure must be maintained for audit.

c. A combined total of six hours per biennium may be used for the following activities:

- (1) Government regulations;
- (2) CPR, child abuse and dependent adult abuse; and
- (3) A maximum of two hours may be used for business-related topics.

d. An applicant will provide official transcripts indicating successful completion of academic courses that apply to the field of speech pathology and audiology in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

e. Continuing education credit may be earned by participation in continuing education programs and activities that meet the criteria in this rule and that are completed through journal readings, teleconference or videoconference participation, and online program participation. In addition, such programs and activities must include a posttest that the participant must pass in order to receive continuing education credit.

f. Continuing education will be obtained by attending a program that meets the criteria in subrule 303.3(1) including but not limited to continuing education programs offered by AAA and ASHA. Other individuals or groups may offer continuing education programs that meet the criteria in rule 645—303.3(147,272C) through one of the following organizations:

- (1) National, state or local associations of speech pathology and audiology;
- (2) Schools and institutes of speech pathology and audiology;
- (3) Universities, colleges or community colleges.

Continuing education must be offered by or approved in advance of delivery by the organizations stated above.

[ARC 7827C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 147.

[Filed 11/9/00, Notice 9/20/00—published 11/29/00, effective 1/3/01]

[Filed 8/30/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]

[Filed 5/9/02, Notice 4/3/02—published 5/29/02, effective 7/3/02]

[Filed 8/14/03, Notice 5/28/03—published 9/3/03, effective 10/8/03]

[Filed 8/22/05, Notice 6/8/05—published 9/14/05, effective 10/19/05][◇]

[Filed 12/22/08, Notice 10/22/08—published 1/14/09, effective 2/18/09]

[Filed ARC 8872B (Notice ARC 8639B, IAB 4/7/10), IAB 6/30/10, effective 8/4/10]

[Filed ARC 1397C (Notice ARC 1314C, IAB 2/5/14), IAB 4/2/14, effective 5/7/14]

[Filed ARC 3591C (Notice ARC 3410C, IAB 10/25/17), IAB 1/17/18, effective 2/21/18]

[Filed ARC 5268C (Notice ARC 5163C, IAB 9/9/20), IAB 11/4/20, effective 12/9/20]

[Filed ARC 7827C (Notice ARC 7470C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

[◇] Two or more ARCs

CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

[Prior to 9/9/87, see Health Department [470], Ch 156]

[Prior to 9/19/01, see 645—Chapter 301]

645—304.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—13.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 645—Chapter 13.

304.1(1) Violation of the following code of ethics:

a. Licensees will provide ethical, professional services, conduct research with honesty and compassion, and respect the dignity, worth and rights of those served.

b. Claims of expected clinical results will be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.

c. Records will be adequately maintained for the period of time required by applicable state and federal laws.

d. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.

e. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.

f. Licensees who engage in research will comply with all institutional, state, and federal regulations that address any aspects of research, including those that involve human participants and animals, such as those promulgated in the current Responsible Conduct of Research by the U.S. Office of Research Integrity.

g. Individuals in administrative or supervisory roles will not require or permit their professional staff to provide services or conduct clinical activities that compromise the staff members' independent and objective professional judgment.

h. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, age, ethnicity, gender identity/gender expression, sexual orientation, national origin, disability, culture, language or dialect.

i. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances will be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.

j. Licensees who dispense products to persons served professionally will provide clients with freedom of choice for the source of services and products.

k. Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420 (2022), "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421 (2022), "Hearing aid devices; conditions for sale."

l. Licensees will comply with universal newborn and infant hearing screening requirements within Iowa Code section 135.131 and 641—Chapter 3.

304.1(2) Reserved.

This rule is intended to implement Iowa Code chapters 147 and 272C.

[ARC 7828C, IAB 4/17/24, effective 5/22/24]

[Filed 6/23/78, Notice 12/28/77—published 7/12/78, effective 8/16/78]

[Filed 3/20/79, Notice 10/18/78—published 4/18/79, effective 6/1/79]

[Filed emergency 5/23/79—published 6/13/79, effective 7/1/79]

[Filed 6/6/79, Notice 4/18/79—published 6/27/79, effective 8/1/79]

[Filed 8/28/81, Notice 3/4/81—published 9/16/81, effective 10/21/81]

[Filed 12/16/81, Notice 9/16/81—published 1/6/82, effective 2/12/82]

[Filed 10/22/82, Notice 8/18/82—published 11/10/82, effective 12/17/82]

[Filed emergency 11/15/84—published 12/5/84, effective 11/15/84]

- [Filed 11/16/84, Notice 10/10/84—published 12/5/84, effective 1/9/85]
- [Filed 1/10/86, Notice 7/17/85—published 1/29/86, effective 3/6/86]
- [Filed 12/10/86, Notice 7/16/86—published 12/31/86, effective 2/4/87]
- [Filed emergency 8/21/87—published 9/9/87, effective 9/1/87]
- [Filed 6/9/89, Notice 2/8/89—published 6/28/89, effective 8/2/89]
- [Filed 7/26/90, Notice 6/13/90—published 8/22/90, effective 9/26/90]
- [Filed 4/12/91, Notice 1/9/91—published 5/1/91, effective 6/5/91]
- [Filed 8/1/91, Notice 5/1/91—published 8/21/91, effective 9/25/91]
- [Filed 11/22/91, Notice 8/21/91—published 12/11/91, effective 1/15/92]
- [Filed 8/14/92, Notice 4/15/92—published 9/2/92, effective 10/7/92]
- [Filed 2/23/94, Notice 12/8/93—published 3/16/94, effective 4/22/94]
- [Filed 10/7/94, Notice 8/3/94—published 10/26/94, effective 11/30/94]
- [Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]
- [Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]
- [Filed 2/15/00, Notice 12/15/99—published 3/8/00, effective 4/12/00]
- [Filed 11/9/00, Notice 9/20/00—published 11/29/00, effective 1/3/01]
- [Filed 8/30/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]
- [Filed 8/14/03, Notice 5/28/03—published 9/3/03, effective 10/8/03]
- [Filed 8/22/05, Notice 6/8/05—published 9/14/05, effective 10/19/05]
- [Filed 11/4/05, Notice 9/14/05—published 11/23/05, effective 12/28/05]
- [Filed 3/15/06, Notice 11/23/05—published 4/12/06, effective 5/17/06]
- [Filed 12/22/08, Notice 10/22/08—published 1/14/09, effective 2/18/09]
- [Filed ARC 8872B (Notice ARC 8639B, IAB 4/7/10), IAB 6/30/10, effective 8/4/10]
- [Filed ARC 9947B (Notice ARC 9767B, IAB 10/5/11), IAB 12/28/11, effective 2/1/12]
- [Filed ARC 3591C (Notice ARC 3410C, IAB 10/25/17), IAB 1/17/18, effective 2/21/18]
- [Filed ARC 4215C (Notice ARC 4036C, IAB 9/26/18), IAB 1/2/19, effective 2/6/19]
- [Filed ARC 5757C (Notice ARC 5457C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]
- [Filed ARC 7828C (Notice ARC 7471C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361	LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 362	CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 363	DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361

LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—361.1(154E) Definitions. For purposes of these rules, the following definitions will apply:

“Active interpreter or transliterator services” means the actual time spent personally providing interpreting or transliterating services or providing interpreting or transliterating services through videoconferencing or remotely. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting will not be included in the time spent personally providing interpreting or transliterating services.

“Active license” means a license that is current and has not expired.

“Board” means the board of sign language interpreters and transliterators.

“Direct supervision of a temporary license holder” means monitoring of interpreting or transliterating services while personally observing the temporary license holder providing those services, as outlined in paragraphs 361.3(4) “b” and “c.”

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—361.9(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions.

“Supervisor” means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

[ARC 7829C, IAB 4/17/24, effective 5/22/24]

645—361.2(154E) Requirements for licensure.

361.2(1) The following criteria will apply to licensure:

a. Applicants will submit a completed online licensure application and pay the nonrefundable fee; and

b. Applicants will provide proof of one of the following:

(1) Passed the National Association of the Deaf/Registry of Interpreters for the Deaf (NAD/RID) National Interpreter Certification (NIC) examination after November 30, 2011; or

(2) Passed one of the following examinations administered by the Registry of Interpreters for the Deaf (RID):

1. Oral Transliteration Certificate (OTC); or

2. Certified Deaf Interpreter (CDI); or

(3) Passed the Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above after December 31, 1999; or

(4) Passed the Cued Language Transliterater National Certification Examination (CLTNCE) administered by The National Certifying Body for Cued Language Transliterators; or

(5) Currently holds one of the following NAD/RID certifications awarded through November 30, 2011, by the National Council on Interpreting (NCI):

1. National Interpreter Certification (NIC); or
2. National Interpreter Certification Advanced (NIC Advanced); or
3. National Interpreter Certification Master (NIC Master); or

(6) Currently holds one of the following certifications previously awarded by the RID:

1. Certificate of Interpretation (CI); or
2. Certificate of Transliteration (CT); or
3. Certificate of Interpretation and Certificate of Transliteration (CI and CT); or
4. Interpretation Certificate/Transliteration Certificate (IC/TC); or
5. Comprehensive Skills Certificate (CSC); or

(7) Currently holds one of the following certifications previously awarded by the National Association of the Deaf (NAD):

1. NAD III (Generalist); or
2. NAD IV (Advanced); or
3. NAD V (Master); or

(8) Currently holds an advanced or master certification awarded by the Board for Evaluation of Interpreters (BEI).

361.2(2) Licensees who were issued their licenses within six months prior to the renewal will not be required to renew their licenses until the renewal cycle two years later.

a. An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

b. An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification directly from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

[ARC 7829C, IAB 4/17/24, effective 5/22/24]

645—361.3(154E) Requirements for temporary license.

361.3(1) An applicant who has not successfully completed one of the board-approved examinations or does not hold an approved certification set forth in paragraph 361.2(1)“d” will provide verification the applicant has passed one of the following:

- a.* The written portion of the Registry of Interpreters for the Deaf (RID) examination;
- b.* The written portion of the Board for Evaluation of Interpreters (BEI) examination;
- c.* The written portion of the Educational Interpreter Performance Assessment (EIPA) examination;
- d.* The EIPA prehire examination at the highest recommended level;
- e.* An associate degree or higher from a formal interpreter training program (ITP) with a regionally accredited college or university;
- f.* The American Sign Language Proficiency Interview (ASLPI) at the 2+ level or higher; or
- g.* The Sign Language Proficiency Interview (SLPI) at the intermediate level or higher.

361.3(2) An applicant will submit a written supervisory agreement that complies with the requirements stated in subrule 361.3(4). The temporary license will be valid for two years from the initial issue date and may be renewed once for the immediately following two-year period.

361.3(3) A temporary license holder is only authorized to practice if the following direct supervision requirements are fulfilled:

a. Enter into a written agreement with a supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in paragraphs 361.3(4) “*b*” and “*c*.” The supervisor will possess a full, unrestricted sign language interpreter and transliterator license. The agreement will be signed and dated by the temporary license holder and the supervisor; will include the temporary license holder’s and supervisor’s names, addresses and contact information; and will be provided to the board with the application for a temporary license.

b. Have a supervisor observe the temporary license holder in active practice for no fewer than six bimonthly observation sessions per year for at least 30 minutes each, if the temporary license holder is working alone, or at least 60 minutes each, if the temporary license holder is working in a team interpreting situation.

c. Attend at least six bimonthly advisory sessions with the supervisor per year for the purpose of discussing the supervisor’s suggestions for the temporary license holder’s professional skill development based on the observation sessions.

d. Maintain an event log documenting the date, time, length and setting of each observation session and advisory session. This event log will be submitted with the temporary license holder’s renewal application.

e. Ensure that the supervisor attends each of the observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

f. If the replacement of a supervisor becomes necessary, develop a new written agreement with the new supervisor.

g. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

361.3(4) As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subrule 361.3(4) is obligated to report to the board an interpreter or transliterator temporary license holder who is not complying with direct supervision requirements or who is not practicing in compliance with Iowa law and rules, including but not limited to Iowa Code chapter 154E and 645—Chapters 361 through 363.

[ARC 7829C, IAB 4/17/24, effective 5/22/24]

645—361.4(154E) Licensure by endorsement.

361.4(1) An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction will file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a.* Meets the requirements of rule 645—361.2(154E);
- b.* Shows evidence of licensure requirements that are similar to those required in Iowa; and
- c.* Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board.

361.4(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

[ARC 7829C, IAB 4/17/24, effective 5/22/24]

645—361.5(154E) License renewal.

361.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or transliterator will begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

361.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

361.5(3) A licensee applying for renewal will:

a. Meet the continuing education requirements as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee, and attach verification of completion of continuing education hours on the website before the license expiration date.

361.5(4) A two-year license will be issued after the requirements of the rule are met. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

361.5(5) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

361.5(6) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.18(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

361.5(7) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

[ARC 7829C, IAB 4/17/24, effective 5/22/24]

645—361.6(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee needs to:

361.6(1) Submit a completed online reactivation application and pay the nonrefundable fee.

361.6(2) If licensed in another jurisdiction, submit a license verification document that discloses disciplinary action taken against the license in the jurisdiction where the applicant was most recently licensed. The document should come directly from that jurisdiction.

361.6(3) Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive; or

(4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
 2. The date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license; or
- (2) Verification of completion of 80 hours of continuing education within two years of application for reactivation; and
- (3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive; and
- (4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.
- [ARC 7829C, IAB 4/17/24, effective 5/22/24]

645—361.7(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing sign language interpreting or transliterating in this state.

[ARC 7829C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

[Filed 4/28/05, Notice 3/16/05—published 5/25/05, effective 7/1/05]

[Filed 11/29/05, Notice 9/14/05—published 12/21/05, effective 1/25/06]

[Filed 2/20/07, Notice 12/20/06—published 3/14/07, effective 4/18/07]

[Filed 2/19/08, Notice 12/19/07—published 3/12/08, effective 4/2/08]

[Filed 8/21/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

[Filed ARC 7643B (Notice ARC 7407B, IAB 12/17/08), IAB 3/25/09, effective 4/29/09]

[Filed ARC 9427B (Notice ARC 9259B, IAB 12/15/10), IAB 3/23/11, effective 4/27/11]

[Filed ARC 0405C (Notice ARC 0228C, IAB 7/25/12), IAB 10/17/12, effective 11/21/12]

[Filed ARC 2744C (Notice ARC 2597C, IAB 6/22/16), IAB 10/12/16, effective 11/16/16]

[Filed ARC 5773C (Notice ARC 5459C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]

[Filed ARC 6146C (Notice ARC 5821C, IAB 8/11/21), IAB 1/12/22, effective 2/16/22]

[Filed ARC 7001C (Notice ARC 6659C, IAB 11/16/22), IAB 4/19/23, effective 5/24/23]

[Filed ARC 7829C (Notice ARC 7487C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 362
CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND
TRANSLITERATORS

645—362.1(154E,272C) Definitions. For the purpose of these rules, the following definitions apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of sign language interpreters and transliterators.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

[ARC 7830C, IAB 4/17/24, effective 5/22/24]

645—362.2(154E,272C) Continuing education requirements.

362.2(1) Requirements for permanent licensees. The continuing education compliance period runs concurrently with each two-year renewal period beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Each person who is licensed to practice as a sign language interpreter or transliterator in this state will be required to complete a minimum of 40 hours of continuing education as specified in rule 645—362.3(154E,272C).

362.2(2) Exception for new permanent licensees. A person licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of the license. Thereafter, the new licensee will complete the continuing education requirements as set forth in rule 645—362.3(154E,272C). The licensee may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements.

362.2(3) National Interpreters Certification (NIC) or Registry of Interpreters for the Deaf (RID) Certification. A licensee who provides proof of a current NIC or current RID Certification meets continuing education requirements for that biennium renewal cycle.

362.2(4) Requirements for temporary license holders. The continuing education compliance period runs concurrently with each two-year renewal period beginning on the date of initial licensure. Temporary license holders will be required to obtain 40 hours of continuing education as set forth in rule 645—362.3(154E,272C). The temporary license holder may use only continuing education hours acquired during the current renewal period. Proof of continuing education hours acquired will be submitted with a temporary license renewal application.

362.2(5) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

362.2(6) No hours of continuing education will be carried over into the next renewal period.

362.2(7) The licensee is responsible for the cost of continuing education.

[ARC 7830C, IAB 4/17/24, effective 5/22/24]

645—362.3(154E,272C) Standards.

362.3(1) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;
- b. Is conducted by individuals who have specialized education and training in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- c. Fulfills stated program goals, objectives, or both; and
- d. Provides proof of attendance, including:
 - (1) Date, location, course title, and presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

362.3(2) Specific criteria.

a. Continuing education will be obtained by attending programs relating to the practice of interpreting or transliterating for the deaf or hard of hearing and that are:

- (1) Educational activities, including lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;
- (2) Obtained in content areas that conform to the content areas specified in the RID Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of continuing education units (CEUs) required, which is defined in paragraph 362.3(2) "b." RID activity categories of independent study or teaching an academic class are not professional study categories that can be claimed for credit by temporary license holders.

b. Each renewal period, licensees will obtain 40 hours (4 CEUs) of continuing education, including no less than 30 hours (3 CEUs) of professional studies. The remaining 10 hours (1 CEU) may be in either professional or general studies. The board will accept proof of a current NIC or current RID Certification in lieu of proof of the 40 hours of continuing education.

c. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

1 CEU = 10 continuing education hours

[ARC 7830C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 154E.

[Filed 2/23/06, Notice 12/21/05—published 3/15/06, effective 4/19/06]

[Filed 2/20/07, Notice 12/20/06—published 3/14/07, effective 4/18/07]

[Filed 8/21/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

[Filed ARC 7643B (Notice ARC 7407B, IAB 12/17/08), IAB 3/25/09, effective 4/29/09]

[Filed ARC 2744C (Notice ARC 2597C, IAB 6/22/16), IAB 10/12/16, effective 11/16/16]

[Filed ARC 7830C (Notice ARC 7488C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 363
DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—363.1(154E) Definition.

“*Consumer*” means an individual utilizing interpreting services who uses spoken English, American Sign Language, or a manual form of English, and in an interpreting situation or setting, the term “consumer” includes both the deaf or hard-of-hearing individual or individuals and the hearing individual or individuals present in such situation or setting.

[ARC 7831C, IAB 4/17/24, effective 5/22/24]

645—363.2(154E,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—363.2(154E,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

363.2(1) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (e.g., acts, knowledge, and practices) that constitutes unethical conduct includes but is not limited to the following:

a. Engaging in sexual activities or sexual contact with a consumer when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s or transliterator’s objectivity, competence, or effectiveness.

b. Failure to decline or to withdraw from an interpreting or transliterating assignment when the interpreter or transliterator does not possess the professional skills and knowledge required for the specific interpreting or transliterating situation or setting.

c. Failure to refrain from providing advice or personal opinions or aligning with one person over another in the course of one’s professional duties.

d. Discriminating against a consumer on the basis of age, sex, race, creed, illness, marital status, political belief, religion, mental or physical disability or diagnosis, sexual orientation, or economic or social status.

e. Failure to inform a consumer when federal or state laws require disclosure of confidential information.

f. Failure to avoid a conflict of interest when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s objectivity, competence, or effectiveness; or failure to disclose to a consumer an actual or perceived conflict of interest.

g. Failure to present a professional appearance that is not visually distracting and is appropriate to the setting.

h. Failure by a temporary license holder to comply with the requirements of 645—subrule 361.2(6).

363.2(2) Reserved.

[ARC 7831C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 147, 154E and 272C.

[Filed 2/23/06, Notice 12/21/05—published 3/15/06, effective 4/19/06]

[Filed 2/20/07, Notice 12/20/06—published 3/14/07, effective 4/18/07]

[Filed 8/21/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

[Filed ARC 8373B (Notice ARC 8111B, IAB 9/9/09), IAB 12/16/09, effective 1/20/10]

[Filed ARC 9568B (Notice ARC 9428B, IAB 3/23/11), IAB 6/29/11, effective 8/3/11]

[Filed ARC 5773C (Notice ARC 5459C, IAB 2/24/21), IAB 7/14/21, effective 8/18/21]

[Filed ARC 7831C (Notice ARC 7489C, IAB 1/10/24), IAB 4/17/24, effective 5/22/24]

PUBLIC SAFETY DEPARTMENT[661]

Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general

CHAPTER 1 THE DEPARTMENT

- | | |
|----------|-------------------------------------------------------------------------------------------------------|
| 1.1(17A) | Establishment of the department of public safety |
| 1.2(17A) | Organization |
| 1.3(17A) | Offices |
| 1.4(17A) | Methods by which and location where the public may obtain information or make submissions or requests |
| 1.5 | Reserved |
| 1.6(17A) | Legal advice |
| 1.7(17A) | Surety companies |
| 1.8(17A) | Construction of rules |

CHAPTER 2 Reserved

CHAPTER 3 SHERIFF'S UNIFORMS

- | | |
|---------------|--------------------|
| 3.1(17A,331) | General provisions |
| 3.2(17A,331) | Trousers |
| 3.3(17A,331) | Shirts |
| 3.4(17A,331) | Hats |
| 3.5(17A,331) | Ties |
| 3.6(17A,331) | Raingear |
| 3.7(17A,331) | Shoes and boots |
| 3.8(17A,331) | Gloves |
| 3.9(17A,331) | Jackets |
| 3.10(17A,331) | Accessories |

CHAPTERS 4 and 5 Reserved

CHAPTER 6 VEHICLE IMPOUNDMENT

- | | |
|--------------|--------------------------------------------------|
| 6.1(17A,321) | Vehicle impoundment |
| 6.2(17A,321) | Vehicles which may be impounded immediately |
| 6.3(17A,321) | Vehicles which need not be impounded immediately |
| 6.4(17A,321) | Impoundment procedure |
| 6.5(17A,321) | Abandoned vehicles |
| 6.6(321) | Scope |

CHAPTER 7 Reserved

CHAPTER 8 CRIMINAL JUSTICE INFORMATION

- | | |
|--------------|----------|
| 8.1 to 8.100 | Reserved |
|--------------|----------|

DIVISION I IOWA ON-LINE WARRANTS AND ARTICLES SYSTEM

- | | |
|---------------|-------------------------------------------------------------------------------|
| 8.101(80,692) | Iowa on-line warrants and articles (IOWA) criminal justice information system |
| 8.102(80,692) | Information available through the IOWA system |

8.103(80)	Human immunodeficiency virus-related information
8.104(80,692)	IOWA system security
8.105(80,692)	Subpoenas and court orders

CHAPTER 9

Reserved

CHAPTER 10

PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF PUBLIC SAFETY

10.1(17A)	Definitions
10.2 to 10.100	Reserved

DECLARATORY ORDERS

10.101(17A)	Petition for declaratory order
10.102(17A)	Notice of petition
10.103(17A)	Intervention
10.104(17A)	Briefs
10.105(17A)	Inquiries
10.106(17A)	Service and filing of petitions and other papers
10.107(17A)	Consideration
10.108(17A)	Action on petition
10.109(17A)	Refusal to issue order
10.110(17A)	Contents of declaratory order—effective date
10.111(17A)	Copies of orders
10.112(17A)	Effect of a declaratory order
10.113 to 10.200	Reserved

AGENCY PROCEDURE FOR RULE MAKING

10.201(17A)	Applicability
10.202(17A)	Advice on possible rules before notice of proposed rule adoption
10.203(17A)	Public rule-making docket
10.204(17A)	Notice of proposed rule making
10.205(17A)	Public participation
10.206(17A)	Regulatory analysis
10.207(17A,25B)	Fiscal impact statement
10.208(17A)	Time and manner of rule adoption
10.209(17A)	Variance between adopted rule and published notice of proposed rule adoption
10.210(17A)	Exemptions from public rule-making procedures
10.211(17A)	Concise statement of reasons
10.212(17A)	Contents, style, and form of rule
10.213(17A)	Agency rule-making record
10.214(17A)	Filing of rules
10.215(17A)	Effectiveness of rules prior to publication
10.216(17A)	General statements of policy
10.217(17A)	Review by department of rules
10.218(17A)	Petition for rule making
10.219(17A)	Briefs
10.220(17A)	Inquiries
10.221(17A)	Agency consideration
10.222(17A)	Waivers of rules
10.223 to 10.300	Reserved

CONTESTED CASES

10.301(17A)	Scope and applicability
10.302(17A)	Definitions
10.303(17A)	Time requirements
10.304(17A)	Requests for contested case proceeding
10.305(17A)	Notice of hearing
10.306(17A)	Presiding officer
10.307(17A)	Waiver of procedures
10.308(17A)	Telephone proceedings
10.309(17A)	Disqualification
10.310(17A)	Consolidation—severance
10.311(17A)	Pleadings
10.312(17A)	Service and filing of pleadings and other papers
10.313(17A)	Discovery
10.314(17A)	Subpoenas
10.315(17A)	Motions
10.316(17A)	Prehearing conference
10.317(17A)	Continuances
10.318(17A)	Withdrawals
10.319(17A)	Intervention
10.320(17A)	Hearing procedures
10.321(17A)	Evidence
10.322(17A)	Default
10.323(17A)	Ex parte communication
10.324(17A)	Recording costs
10.325(17A)	Interlocutory appeals
10.326(17A)	Final decision
10.327(17A)	Appeals and review
10.328(17A)	Applications for rehearing
10.329(17A)	Stays of agency actions
10.330(17A)	No factual dispute contested cases
10.331(17A)	Emergency adjudicative proceedings
10.332(17A)	Burden of proof

CHAPTERS 11 and 12

Reserved

CHAPTER 13

SPECIAL RAILWAY AGENTS

13.1(17A,80)	Appointment of railway special agents
13.2(17A,80)	Standards
13.3(17A,80)	Training requirements
13.4(17A,80)	Letter of request
13.5(17A,80)	Application form
13.6(17A,80)	Photographs
13.7(17A,80)	Vision classification
13.8(17A,80)	Surety bond
13.9(17A,80)	Background investigation
13.10(17A,80)	Weapons permit
13.11(17A,80)	Renewal of permit
13.12(17A,80)	Weapons training
13.13(17A,80)	Review of application

- 13.14(17A,80) Identification card
- 13.15(17A,80) Notification
- 13.16(17A,80) Notice of termination of employment

CHAPTER 14

Reserved

CHAPTER 15

LAW ENFORCEMENT ADMINISTRATOR'S TELECOMMUNICATIONS ADVISORY COMMITTEE (LEATAC)

- 15.1(693) Establishment of committee
- 15.2(693) Membership of committee
- 15.3(693) Terms of appointment
- 15.4(693) Officers
- 15.5(693) Bylaws
- 15.6(693) Duties

CHAPTER 16

STATE BUILDING CODE—FACTORY-BUILT STRUCTURES

- 16.1 to 16.609 Reserved

PART 1—MODULAR FACTORY-BUILT STRUCTURES

- 16.610(103A) “Modular factory-built structures”
- 16.611 to 16.619 Reserved

PART 2—MANUFACTURED HOUSING

- 16.620(103A) Manufactured home construction
- 16.621(103A) Installation of manufactured homes
- 16.622 Reserved
- 16.623(103A) Installation seal and certificate procedures for manufactured homes
- 16.624 to 16.626 Reserved
- 16.627(103A) Approval of existing manufactured home tie-down systems
- 16.628(103A) Procedure for governmental subdivisions for installation of factory-built structures
- 16.629(103A) Support and anchoring systems submission

CHAPTER 17

Reserved

CHAPTER 18

PARKING FOR PERSONS WITH DISABILITIES

- 18.1(321L) Scope
- 18.2(321L) Location
- 18.3(321L) Dimensions
- 18.4(321L) Access aisles and loading zones
- 18.5(321L) Designation
- 18.6(321L) Numbers of parking spaces for persons with disabilities required in off-street parking facilities
- 18.7(321L) Persons with disabilities parking at residential facilities
- 18.8(321L) On-street parking

CHAPTER 19

Reserved

CHAPTER 20

GOVERNOR'S TRAFFIC SAFETY BUREAU

- 20.1(23USC402,ExecOrd23) Authority
- 20.2(23USC402,ExecOrd23) Purpose
- 20.3(23USC402,ExecOrd23) Responsibilities
- 20.4(23USC402,ExecOrd23) Funding criteria
- 20.5(23USC402,ExecOrd23) Program requirements

CHAPTER 21

Reserved

CHAPTER 22

REGULATIONS APPLICABLE TO CARRIERS

- 22.1(321) Safety and hazardous materials regulations
- 22.2(321) Definitions
- 22.3(321) Motor carrier safety regulations exemptions
- 22.4(321) Hazardous materials exemptions
- 22.5(321) Safety fitness
- 22.6(321) Out-of-service order
- 22.7(321) Driver's statement
- 22.8(321) Planting and harvesting period
- 22.9(325A) Marking of motor vehicles
- 22.10(325A) Bills of lading or freight receipts

CHAPTERS 23 to 27

Reserved

CHAPTER 28

MARIJUANA ERADICATION PROCEDURES

- 28.1(80) Reports of marijuana
- 28.2(80) Cultivated marijuana
- 28.3(80) Uncultivated marijuana
- 28.4(80) Scope and limitation

CHAPTER 29

HUMAN TRAFFICKING PREVENTION TRAINING—LODGING PROVIDERS

- 29.1(80) Definitions
- 29.2(80) Establishment of training program
- 29.3(80) Human trafficking prevention training program content
- 29.4(80) Training providers
- 29.5(80) Certification for lodging providers and their employees

CHAPTERS 30 to 34

Reserved

CHAPTER 35

COMPLAINTS AGAINST EMPLOYEES

- 35.1(80) Definitions
- 35.2(80) Filing a complaint
- 35.3(80) Notification to complainant
- 35.4(80) Investigation requirements of agency

CHAPTERS 36 to 40

Reserved

CHAPTER 41

PAYMENT OF SMALL CLAIMS TO EMPLOYEES

41.1(17A,80) Authorization to reimburse

CHAPTERS 42 to 52

Reserved

CHAPTER 53

FIRE SERVICE TRAINING BUREAU

53.1(80) Fire service training bureau

53.2(80) Programs, services, and fees

CHAPTERS 54 to 60

Reserved

CHAPTER 61

FIRE SAFE CIGARETTE CERTIFICATION PROGRAM

61.1(101B) Definitions

61.2(101B) Certification and fee

61.3(101B) Test method, performance standard, test report

61.4(101B) Notification of certification

61.5(101B) Marking fire safe cigarette packaging

61.6(17A) Violations and penalties

CHAPTERS 62 to 79

Reserved

CHAPTER 80

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

80.1(17A,22) Definition

80.2(17A,22) Statement of policy

80.3(17A,22) Requests for access to records

80.4(17A,22) Procedures for access to confidential records

80.5(17A,22) Requests for treatment of a record as a confidential record

80.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record

80.7(17A,22) Consent to disclosure by the subject of a confidential record

80.8 Reserved

80.9(17A,22) Disclosures without the consent of the subject

80.10(17A,22) Routine use

80.11(17A,22) Records retention manual

80.12(17A,22) Data processing system

80.13(22) Confidential records

80.14(252J) Release of confidential licensing information for child support recovery purposes

80.15(22,80F) Release of official photographs of or personal information about employees

CHAPTER 81

CRIMINAL INTELLIGENCE INFORMATION

81.1(692) Definitions

81.2(692) Iowa law enforcement intelligence network (LEIN) information system

81.3(692) Criminal intelligence file security

81.4(692) Review of criminal intelligence files—purging

81.5(692) Subpoenas and court orders

CHAPTER 82

CRIMINAL HISTORY AND FINGERPRINT RECORDS

- 82.1(690,692) Records and identification section
- 82.2(690,692) Definitions
- 82.3(690,692) Tracking criminal history data
- 82.4 to 82.100 Reserved

DIVISION I
CRIMINAL HISTORY DATA

- 82.101(690,692) Release of information
- 82.102(690,692) Right of review
- 82.103(690,692) Review of record
- 82.104(17A,690,692) Inaccuracies in criminal history record
- 82.105(17A,690,692) Arresting agency portion of final disposition form
- 82.106(690,692) Final disposition form
- 82.107(692) Release of information to the public
- 82.108(692) Scope of record checks for non-criminal justice agencies and individuals
- 82.109(692) Fees
- 82.110(17A,22,692) Requests for criminal history data
- 82.111(690) Administrative sanctions
- 82.112(692) Criminal history record checks for qualified entities or authorized agencies
- 82.113 to 82.200 Reserved

DIVISION II
FINGERPRINT RECORDS

- 82.201(17A,690,692) Fingerprint files and crime reports
- 82.202(690) Taking of fingerprints
- 82.203 to 82.300 Reserved

DIVISION III
JUVENILE RECORDS

- 82.301(232) Juvenile fingerprints and criminal histories

CHAPTER 83

IOWA SEX OFFENDER REGISTRY

- 83.1(692A) Sex offender registry established
- 83.2(692A) Definitions
- 83.3(692A) Forms and procedures
- 83.4(692A) Availability of records
- 83.5(692A) Expungement of records

CHAPTERS 84 to 86

Reserved

CHAPTER 87

WIRELESS COMMUNICATIONS SERVICE PROVIDER DATABASE

- 87.1(34A) Wireless communications service provider database established
- 87.2(34A) Definitions
- 87.3(34A) Administration of database
- 87.4(34A) Confidentiality
- 87.5(34A) Database requirements
- 87.6(34A) Procedures to request provider information

CHAPTER 88

NOTIFICATION OF LAW ENFORCEMENT AGENCY BY HOSPITAL PRIOR TO DISCHARGE
OF A PERSON WITH SERIOUS MENTAL IMPAIRMENT

88.1(229) Notification request

CHAPTER 89

MISSING PERSONS

89.1 to 89.99 Reserved

DIVISION I

MISSING PERSON INFORMATION CLEARINGHOUSE

89.100(694) Missing person information clearinghouse
 89.101(694) Administration of missing person information clearinghouse
 89.102(694) Definitions
 89.103(694) Program information
 89.104(694) Prevention and education programs and materials
 89.105(694) Release of information
 89.106(694) Dissemination
 89.107(694) Training
 89.108 to 89.199 Reserved

DIVISION II

AMBER ALERT PROGRAM

89.200(694) AMBER alert program
 89.201(694) Criteria
 89.202(694) Activation procedures
 89.203(694) Alternative alert if criteria are not satisfied
 89.204 to 89.299 Reserved

DIVISION III

BLUE ALERT PROGRAM

89.300(80H) Blue alert program
 89.301(80H) Definitions
 89.302(80H) Criteria for alert for officer injury or death
 89.303(80H) Criteria for alert for missing officer
 89.304(80H) Alternative alert if criteria are not satisfied
 89.305(80H) Activation procedures
 89.306(80H) Information made public
 89.307(80H) Termination procedures

CHAPTER 90

Reserved

CHAPTER 91

WEAPONS AND IOWA PROFESSIONAL PERMITS TO CARRY WEAPONS

91.1(724) Definitions
 91.2(724) Forms
 91.3(724) Federal and state prohibitions—permit to carry weapons
 91.4(724) Application procedures for an Iowa professional permit to carry weapons
 91.5(724) Issuance or denial of application for permit to carry weapons
 91.6(724) Suspension or revocation of permit to carry weapons
 91.7(724) Appeals
 91.8(724) Reports and remittance to the state
 91.9(724) Offensive weapons as collector's items—method of classification
 91.10(724) Application for approved training organization

CHAPTER 92

Reserved

CHAPTER 93

IDENTIFICATION CARDS FOR FORMER PEACE OFFICERS
OF THE IOWA DEPARTMENT OF PUBLIC SAFETY

- 93.1(18USC926C) General provisions
- 93.2(18USC926C) Definitions
- 93.3(18USC926C) Application for former peace officer ID card
- 93.4(18USC926C) Annual firearms qualification—certification card
- 93.5(17A) Appeals

CHAPTER 94

Reserved

CHAPTER 95

DISPOSITION OF SEIZED AND FORFEITED WEAPONS AND AMMUNITION

- 95.1(809,809A) Definitions
- 95.2(809,809A) Ammunition and firearms
- 95.3(809,809A) Firearms inventory
- 95.4(809,809A) Deposit of firearms in the firearms reference file
- 95.5(809,809A) Disposition of firearms (interstate)
- 95.6(809A) Transfer of rifles and shotguns to the department of natural resources
- 95.7(809,809A) Disposition of firearms (intrastate)
- 95.8(809,809A) Final disposition and destruction of firearms
- 95.9(809,809A) Claims
- 95.10(809,809A) Disposition of explosives
- 95.11(809,809A) Disposition of weapons other than firearms and explosives

CHAPTERS 96 to 120

Reserved

CHAPTER 121

BAIL ENFORCEMENT, PRIVATE INVESTIGATION, AND
PRIVATE SECURITY BUSINESSES

- 121.1(80A) Licensing
- 121.2(80A) Definitions
- 121.3(80A) Persons exempt
- 121.4(80A) Licenses
- 121.5(80A) License requirements
- 121.6(80A) Identification cards
- 121.7(80A) License and background investigation fees
- 121.8(80A) Display of license
- 121.9(80A) Duplicate license
- 121.10(80A) License renewal
- 121.11(80A) Employee identification cards
- 121.12(80A) Badges, uniforms, insignia, patches and hats
- 121.13(80A) Advertisement, cards, letterhead and the like
- 121.14(80A) Misleading statements
- 121.15(80A) Reports
- 121.16(80A) Denial, cancellation, suspension, or revocation of a license or identification card
- 121.17(80A) Licensee's duty regarding employees
- 121.18(80A) Campus weapon requirements

121.19(80A)	Professional permit to carry weapons
121.20(80A)	Appeals
121.21(252J)	Child support collection procedures
121.22(80A)	Continuing education requirements
121.23(80A)	Reciprocity
121.24(80A)	Replacement license

CHAPTERS 122 to 140

Reserved

CHAPTER 141

CLOSED CIRCUIT SURVEILLANCE SYSTEMS

141.1(99F)	Definitions
141.2 and 141.3	Reserved
141.4(99F)	Closed circuit surveillance system
141.5(99F)	Required equipment
141.6(99F)	Required surveillance
141.7(99F)	Equipment in DCI offices
141.8(99F)	Camera lenses
141.9(99F)	Lighting
141.10(99F)	Surveillance room
141.11(99F)	Nongambling hours
141.12(99F)	Waivers from requirements

CHAPTERS 142 to 149

Reserved

CHAPTER 150

DIVISION OF CRIMINAL INVESTIGATION CRIMINALISTICS LABORATORY

150.1(691)	Criminalistics laboratory
150.2(691)	Purpose and scope of work
150.3(691)	Laboratory capabilities
150.4(691)	Evidence submission to the laboratory
150.5(17A,691)	Distribution of reports
150.6(17A,691)	Disposition of evidence

CHAPTERS 151 to 155

Reserved

CHAPTER 156

DNA DATABASE

156.1(81)	Establishment of DNA database
156.2(81)	Definitions
156.3(81)	Administration of DNA database
156.4(81)	Collection of DNA samples
156.5(81)	Submission of DNA samples
156.6(81)	Analysis of DNA samples
156.7(81)	Identification of DNA samples
156.8(81)	Storage of DNA samples
156.9	Reserved
156.10(81)	Expungement of DNA samples

CHAPTER 157

DEVICES AND METHODS TO TEST BODY FLUIDS FOR ALCOHOL OR DRUGS

- 157.1(321J) Approval of devices and methods to test for alcohol or drug concentration
- 157.2(321J) Evidentiary breath testing
- 157.3(321J) Urine collection
- 157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory
- 157.5(321J) Preliminary breath screening test
- 157.6(123) Chemical test—alcohol concentration—public intoxication
- 157.7(321J) Detection of drugs other than alcohol

CHAPTER 158

IGNITION INTERLOCK DEVICES

- 158.1(321J) Scope and authority
- 158.2(321J) Definitions
- 158.3(321J) Approval
- 158.4(321J) Revocation of approval
- 158.5(321J) Modifications to an approved IID
- 158.6(321J) Mandatory operational features
- 158.7(321J) IID security
- 158.8(321J) IID maintenance and reports
- 158.9(321J) Other provisions

CHAPTER 159

STATEWIDE SOBRIETY AND DRUG MONITORING PROGRAM

- 159.1(901D) Program created
- 159.2 to 159.9 Reserved
- 159.10(901D) Definitions
- 159.11(901D) Participating jurisdiction requirements
- 159.12(901D) Participant requirements
- 159.13 to 159.19 Reserved
- 159.20(901D) Testing
- 159.21 to 159.29 Reserved
- 159.30(901D) Program fees
- 159.31 to 159.39 Reserved
- 159.40(901D) Fees—indigent participants
- 159.41 to 159.49 Reserved
- 159.50(901D) Stakeholder group
- 159.51 to 159.59 Reserved
- 159.60(901D) Grant program established

CHAPTERS 160 to 173

Reserved

CHAPTER 174

RETAIL SALES OF PSEUDOEPHEDRINE

- 174.1(81GA,SF169) Electronic logbooks
- 174.2(81GA,SF169) Reporting of civil penalties

CHAPTERS 175 to 199

Reserved

CHAPTER 200
FIRE MARSHAL ADMINISTRATION

200.1(100)	Description
200.2(100)	General administrative procedures
200.3(100)	Building plan approval and plan review fees
200.4(100,101,101A)	Inspections and inspection fees
200.5(100)	Certificates for licensure
200.6(100)	Fire investigations
200.7(100)	Fire drills
200.8(100)	Inspection based on complaint
200.9(100A)	Sharing of insurance company information with the fire marshal
200.10(100A)	Release of information to an insurance company
200.11(100A)	Forms

CHAPTER 201
GENERAL FIRE SAFETY REQUIREMENTS

201.1(100)	Scope
201.2(100)	General provisions
201.3(100)	Electrical installations
201.4(100)	Existing buildings or structures
201.5(100)	Recognition of local fire ordinances and enforcement

CHAPTER 202
REQUIREMENTS FOR SPECIFIC OCCUPANCIES

202.1(100)	Scope
202.2 to 202.4	Reserved
202.5(100,135C)	General requirements for small group homes (specialized licensed facilities) licensed pursuant to Iowa Code section 135C.2 and for facilities in which foster care is provided by agencies to fewer than six children pursuant to Iowa Code chapter 237

CHAPTERS 203 and 204
Reserved

CHAPTER 205
FIRE SAFETY REQUIREMENTS FOR HOSPITALS AND
HEALTH CARE FACILITIES

205.1(100)	Definitions
205.2 to 205.4	Reserved
205.5(100)	Hospitals
205.6 to 205.9	Reserved
205.10(100)	Nursing facilities and hospices
205.11 to 205.14	Reserved
205.15(100)	Intermediate care facilities for persons with intellectual disabilities and intermediate care facilities for persons with mental illness
205.16 to 205.19	Reserved
205.20(100)	Ambulatory health care facilities
205.21 to 205.24	Reserved
205.25(100)	Religious nonmedical health care institutions

CHAPTERS 206 to 209
Reserved

CHAPTER 210
SMOKE ALARMS/DETECTORS

- 210.1(100) Definitions
- 210.2(100) Scope
- 210.3(100) General requirements
- 210.4(100) Smoke detectors—notice and certification of installation
- 210.5(100) Smoke detectors—new and existing construction

CHAPTER 211
CARBON MONOXIDE ALARMS

- 211.1(86GA,SF2219) Scope
- 211.2 to 211.9 Reserved
- 211.10(86GA,SF2219) Definitions
- 211.11(86GA,SF2219) Carbon monoxide alarms—required
- 211.12(86GA,SF2219) Installation and placement of carbon monoxide alarms
- 211.13(86GA,SF2219) Carbon monoxide alarms—alternative systems
- 211.14(86GA,SF2219) Carbon monoxide alarms—power source
- 211.15 to 211.19 Reserved
- 211.20(86GA,SF2219) Responsibility for installation and maintenance of carbon monoxide alarms
- 211.21(86GA,SF2219) Certification of installation required
- 211.22(86GA,SF2219) Inspections, notifications and remedies

CHAPTERS 212 to 220
Reserved

CHAPTER 221
FLAMMABLE OR COMBUSTIBLE LIQUIDS

- 221.1(101) Scope
- 221.2(101) Definitions
- 221.3(101) Flammable or combustible liquids
- 221.4(101) Motor fuel dispensing facilities and repair garages
- 221.5(101) Aircraft fueling
- 221.6(101) Helicopter fueling
- 221.7(101) Fuel-fired appliances
- 221.8(101) Stationary combustion engines and gas turbines

CHAPTERS 222 and 223
Reserved

CHAPTER 224
ABOVEGROUND FLAMMABLE OR COMBUSTIBLE LIQUID STORAGE TANKS

- 224.1(101) Scope
- 224.2(101) Definitions
- 224.3(101) Compliance
- 224.4(101) Registration of existing and new tanks—fees
- 224.5(101) Approval of plans
- 224.6(101) Inspections and orders
- 224.7(101) Leaks, spills, or damage
- 224.8(101) Civil penalty
- 224.9(17A,101) Appeals

CHAPTER 225
Reserved

CHAPTER 226
LIQUEFIED PETROLEUM GAS

- 226.1(101) General requirements
- 226.2(101) Transfer into container
- 226.3(101) Prohibition of certain refrigerants
- 226.4(101) Qualifications of personnel
- 226.5(101) Pressure testing
- 226.6(101) Damages—reporting
- 226.7(101) Use of railroad tank cars in stationary service
- 226.8(101) Installation and use of DOT specification MC330 or MC331 cargo tanks in stationary service
- 226.9(101) NFPA standards
- 226.10(101) Public fueling of LP-gas motor fuel vehicles

CHAPTER 227
Reserved

CHAPTER 228
LIQUEFIED NATURAL GAS

- 228.1(101) Transportation, storage, handling, and use of liquefied natural gas

CHAPTERS 229 and 230
Reserved

CHAPTER 231
MANUFACTURING, STORAGE, HANDLING, AND
USE OF EXPLOSIVE MATERIALS

- 231.1(101A) Explosive materials

CHAPTERS 232 to 234
Reserved

CHAPTER 235
LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS

- 235.1(101A) Definitions
- 235.2(101A) Licenses required
- 235.3(101A,272C) License application process
- 235.4(101A) Issuance of commercial explosive contractor license
- 235.5(101A) Issuance of a commercial explosive blaster license
- 235.6(272C) Licensure of persons licensed in other jurisdictions
- 235.7(101A) Inventory and records
- 235.8(101A) Complaints
- 235.9(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals

CHAPTERS 236 to 250
Reserved

CHAPTER 251
FIREFIGHTER TRAINING AND CERTIFICATION

- 251.1(100B) Definitions
- 251.2 to 251.100 Reserved

MINIMUM TRAINING STANDARDS

- 251.101(100B) Minimum training standard
- 251.102(100B) Other training
- 251.103(100B) Continuing training
- 251.104(100B) Record keeping
- 251.105 to 251.200 Reserved

FIREFIGHTER CERTIFICATION

- 251.201(100B) Firefighter certification and accreditation program
- 251.202(100B) Certification standards
- 251.203(100B) Fees
- 251.204(100B) Certification, denial, and revocation of certification

CHAPTERS 252 to 258

Reserved

CHAPTER 259

FIRE FIGHTER TRAINING AND EQUIPMENT FUNDS

- 259.1 to 259.100 Reserved

DIVISION I

VOLUNTEER FIRE FIGHTER TRAINING AND EQUIPMENT FUND

- 259.101(17A,77GA,ch1222) Establishment of fund
- 259.102(17A,77GA,ch1222) Allocations
- 259.103(17A,77GA,ch1222) Awards to private providers of training
- 259.104(100B) Paul Ryan memorial fire fighter safety training fund
- 259.105(100B) Volunteer fire fighter preparedness fund
- 259.106 to 259.200 Reserved

DIVISION II

FIRE FIGHTING EQUIPMENT REVOLVING LOAN FUND

- 259.201(80GA,ch177) Fire fighting equipment revolving loan fund
- 259.202(80GA,ch177) Purpose and scope
- 259.203(80GA,ch177) Definitions
- 259.204(80GA,ch177) Application process
- 259.205(80GA,ch177) Allowable acquisitions
- 259.206(80GA,ch177) Eligibility requirements and restrictions
- 259.207(80GA,ch177) Loan origination fee and repayment schedule
- 259.208 to 259.300 Reserved

DIVISION III

REGIONAL TRAINING FACILITY FUNDS

- 259.301(100B) Regional training center program
- 259.302(100B) Definitions
- 259.303(100B) Availability of funds
- 259.304(100B) Application process
- 259.305(100B) Processing of submitted applications

CHAPTERS 260 to 264

Reserved

CHAPTER 265

CONSUMER FIREWORKS RETAIL SELLER LICENSING AND WHOLESALER REGISTRATION

- 265.1(10A) Definitions
- 265.2(10A) Sale of consumer fireworks—safety standards
- 265.3(10A) Sales allowed

265.4(10A)	License fees—consumer fireworks seller licenses
265.5(10A)	Application and issuance of license
265.6(10A)	Fireworks site plan review, approval, and inspection
265.7(10A)	Unauthorized use of license
265.8(10A)	Revocation of license
265.9(10A)	Consumer fireworks wholesalers—registration—safety—insurance
265.10(10A)	Consumer fireworks fee fund
265.11(10A)	Local fire protection and emergency medical service providers grant program

CHAPTERS 266 to 274

Reserved

CHAPTER 275

LICENSING OF FIRE PROTECTION SYSTEM CONTRACTORS

275.1(100C)	Establishment of program
275.2(100C)	Definitions
275.3(100C)	Responsible managing employee
275.4(100C)	License requirements
275.5(100C)	Application and fees
275.6(100C)	Complaints
275.7(100C)	Denial, suspension, or revocation of licensure; civil penalties; and appeals

CHAPTER 276

LICENSING OF FIRE PROTECTION SYSTEM TECHNICIANS

276.1(100D)	Establishment of program
276.2(100D)	Definitions
276.3(100D)	Licensing requirements
276.4(100D)	Application and fees
276.5(100D)	Complaints
276.6(100D)	Denial, suspension, or revocation of licensure; civil penalties; appeals

CHAPTER 277

LICENSING OF ALARM SYSTEM CONTRACTORS AND TECHNICIANS

277.1(100C)	Establishment of program
277.2(100C)	Definitions
277.3(100C)	Responsible managing employee
277.4(100C)	Contractor licensing
277.5(100C)	Contractor application and fees
277.6(100C)	Technician licensure requirements
277.7(100C)	Technician application and fees
277.8(100C)	Complaints
277.9(100C)	Denial, suspension, or revocation of licensure; civil penalties; and appeals

CHAPTERS 278 to 290

Reserved

CHAPTER 291

VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFITS

291.1(100B)	Volunteer emergency services provider death benefit program
291.2(100B)	Eligibility
291.3(100B)	Determination

CHAPTER 292
PUBLIC SAFETY SURVIVOR BENEFITS FUND

292.1(80)	Purpose
292.2(80)	Definition
292.3(80)	Fund eligibility
292.4(80)	Procedure

CHAPTERS 293 to 299
Reserved

CHAPTER 300
STATE BUILDING CODE—ADMINISTRATION

300.1(103A)	State building code promulgated
300.2(103A)	Building code commissioner
300.3(103A)	Building code advisory council
300.4(103A)	Plan reviews
300.5(103A)	Inspections
300.6(103A)	Local code enforcement

CHAPTER 301
STATE BUILDING CODE—GENERAL PROVISIONS

301.1(103A)	Scope and applicability
301.2(103A)	Definitions
301.3(103A)	General provisions
301.4(103A)	Mechanical requirements
301.5(103A)	Electrical requirements
301.6(103A)	Plumbing requirements
301.7(103A)	Existing buildings
301.8(103A)	Residential construction requirements
301.9(103A)	Fuel gas piping requirements
301.10(103A)	Transition period

CHAPTER 302
STATE BUILDING CODE—ACCESSIBILITY OF BUILDINGS AND
FACILITIES AVAILABLE TO THE PUBLIC

302.1(103A,104A)	Purpose and scope
302.2(103A,104A)	Definitions
302.3(103A,104A)	Accessibility of buildings and facilities available to the public
302.4 to 302.19	Reserved
302.20(103A,104A)	Making apartments accessible and functional for persons with disabilities

CHAPTER 303
STATE BUILDING CODE—REQUIREMENTS FOR
ENERGY CONSERVATION IN CONSTRUCTION

303.1(103A)	Scope and applicability of energy conservation requirements
303.2(103A)	Residential energy code
303.3(103A)	Adoption of nonresidential energy code
303.4(470)	Life cycle cost analysis
303.5(103A)	Energy review fee

CHAPTERS 304 to 309
Reserved

CHAPTER 310
SUSTAINABLE DESIGN STANDARDS

310.1(103A)	Scope and purpose
310.2(103A)	Definitions
310.3(103A)	Submission of projects
310.4(103A)	Sustainable design criteria for residential projects
310.5(103A)	Sustainable design criteria for commercial projects
310.6(103A)	Fees

CHAPTERS 311 to 314
Reserved

CHAPTER 315
WEATHER SAFE ROOMS

315.1(103A)	Scope
315.2(103A)	Definition
315.3(103A)	Requirements

CHAPTERS 316 to 321
Reserved

CHAPTER 322
STATE BUILDING CODE —
MANUFACTURED HOUSING SUPPORT AND ANCHORAGE SYSTEMS

322.1	Reserved
322.2(103A)	Definitions
322.3 to 322.10	Reserved
322.11(103A)	Support and anchorage of manufactured homes
322.12(103A)	Suspension of installation requirements in proclaimed disaster emergencies
322.13 to 322.19	Reserved
322.20(103A)	Fees

CHAPTER 323
TEMPORARY EMERGENCY USE OF FACTORY-BUILT STRUCTURES—COMMERCIAL USE

323.1(103A)	Temporary factory-built structures for commercial use
-------------	-------------------------------------------------------

CHAPTERS 324 to 349
Reserved

CHAPTER 350
STATE HISTORIC BUILDING CODE

350.1(103A)	Scope and definition
-------------	----------------------

CHAPTERS 351 to 371
Reserved

CHAPTER 372
MANUFACTURED OR MOBILE HOME RETAILERS,
MANUFACTURERS, AND DISTRIBUTORS

372.1(103A)	Definitions
372.2(103A)	Criteria for obtaining a manufactured or mobile home retailer's license
372.3(103A)	Operation under distinct name
372.4(103A)	Supplemental statements
372.5(103A)	Denial, suspension, or revocation—civil penalties
372.6(103A,321)	Sale or transfer of manufactured or mobile homes

- 372.7(103A) Right of inspection
- 372.8(103A) Criteria for obtaining a manufactured or mobile home manufacturer's or distributor's license
- 372.9(17A,103A) Waivers

CHAPTER 373

Reserved

CHAPTER 374

MANUFACTURED HOUSING INSTALLER CERTIFICATION

- 374.1(103A) Certification program
- 374.2(103A) Certified installer required
- 374.3(103A) Requirements for installer certification
- 374.4(103A) Certification fee
- 374.5(103A) Certification period
- 374.6(103A) Review of application for certification
- 374.7(103A) Certification renewal and continuing education
- 374.8(103A) Suspension or revocation of certification
- 374.9(103A) Civil penalties
- 374.10(103A) Inspections
- 374.11(103A) Temporary certification during proclaimed disaster emergencies

CHAPTERS 375 to 399

Reserved

CHAPTER 400

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—GOVERNANCE AND ADMINISTRATION

- 400.1(97A) Establishment of system
- 400.2(97A) Definitions
- 400.3(97A) Governance
- 400.4(97A) Meetings of board of trustees
- 400.5(97A) Administrative support
- 400.6(97A) Forms and information
- 400.7(97A) Annual statements
- 400.8(97A) Books of account
- 400.9(97A) Investments
- 400.10(97A) Medical board

CHAPTER 401

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—ADMINISTRATIVE PROCEDURES

- 401.1(97A) Applications
- 401.2(97A) Determination on initial review
- 401.3(97A) Applications for reimbursement for medical attention
- 401.4 to 401.100 Reserved

PROCEDURE FOR RULE MAKING

- 401.101(17A) Applicability
- 401.102(17A) Advice on possible rules before notice of proposed rule adoption
- 401.103(17A) Public rule-making docket
- 401.104(17A) Notice of proposed rule making
- 401.105(17A) Public participation
- 401.106(17A) Regulatory analysis

- 401.107(17A,25B) Fiscal impact statement
- 401.108(17A) Time and manner of rule adoption
- 401.109(17A) Variance between adopted rule and published notice of proposed rule adoption
- 401.110(17A) Concise statement of reasons
- 401.111(17A,97A) Agency rule-making record
- 401.112(17A,97A) Petitions for rule making
- 401.113(17A,97A) Waivers of rules
- 401.114 to 401.200 Reserved

DECLARATORY ORDERS

- 401.201(17A) Petition for declaratory order
- 401.202(17A) Notice of petition
- 401.203(17A) Intervention
- 401.204(17A) Briefs
- 401.205(17A) Inquiries
- 401.206(17A) Service and filing of petitions and other papers
- 401.207(17A) Consideration
- 401.208(17A) Action on petition
- 401.209(17A) Refusal to issue order
- 401.210(17A) Contents of declaratory order—effective date
- 401.211(17A) Copies of orders
- 401.212(17A) Effect of a declaratory order
- 401.213 to 401.300 Reserved

CONTESTED CASES

- 401.301(17A) Contested case proceeding
- 401.302(17A) Discovery
- 401.303(17A) Subpoenas in a contested case
- 401.304(17A) Motions
- 401.305(17A) Settlements
- 401.306(17A) Prehearing conference
- 401.307(17A) Continuances
- 401.308(17A) Withdrawals
- 401.309(17A) Hearing procedures
- 401.310(17A) Evidence
- 401.311(17A) Ex parte communication
- 401.312(17A) Decisions
- 401.313(17A) No factual dispute contested cases
- 401.314(17A) Applications for rehearing

CHAPTER 402

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
ELIGIBILITY, BENEFITS, AND PAYMENTS

- 402.1 to 402.99 Reserved

DIVISION I
ELIGIBILITY

- 402.100(97A) Age of qualification
- 402.101(97A) Date of retirement
- 402.102(97A) Application of Iowa Code Supplement section 97A.6, subsection 12
- 402.103(97A) Date of death
- 402.104(97A) Age of spouse
- 402.105 to 402.199 Reserved

DIVISION II
BENEFITS AND PAYMENTS

402.200(97A)	Computation of average final compensation
402.201(97A)	Workers' compensation—effect on benefit payment
402.202(97A)	Errors in payments
402.203(97A)	Initial benefit for a child
402.204(97A)	Computation for partial month
402.205(97A)	One year of service
402.206(97A)	Termination prior to retirement
402.207(97A)	Optional retirement benefits
402.208(97A)	Options not reversible once payments begin—exceptions
402.209(97A)	Method of calculating annual adjustments when optional retirement benefits are selected
402.210(97A)	Termination of benefits when optional retirement benefits are selected
402.211(97A)	Impact of optional benefit selections on child benefits
402.212(97A)	Method of calculating annual adjustment for members who retire on or after July 1, 2010
402.213(97A)	Method of calculating annual adjustment for members who retired prior to July 1, 2010
402.214(97A)	Determination of survivor's pension
402.215 to 402.299	Reserved

DIVISION III
SERVICE PURCHASES

402.300(97A)	Purchase of eligible service credit
402.301(97A)	Determination of eligible service
402.302(97A)	Determination of cost to member
402.303(97A)	Application process
402.304(97A)	Service adjustment irrevocable
402.305(97A)	Board review
402.306(97A)	Other provisions
402.307(97A)	Purchase of service credit for military service

CHAPTER 403
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
LINE-OF-DUTY DEATH BENEFIT

403.1(97A)	Member death benefit program
403.2(97A)	Application
403.3(97A)	Determination

CHAPTERS 404 to 499
Reserved

CHAPTER 500
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
ORGANIZATION AND ADMINISTRATION

500.1(103)	Establishment of program
500.2(103)	Definitions

CHAPTER 501
Reserved

CHAPTER 502

ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—LICENSING
REQUIREMENTS, PROCEDURES, AND FEES

502.1(103)	License categories and authority
502.2(103)	License requirements
502.3(103)	License terms and fees
502.4(103)	Disqualifications for licensure
502.5(103)	License application
502.6(103)	Restriction of use of class B licenses by political subdivisions
502.7(103)	Financial responsibility
502.8(272C)	Use of criminal convictions in eligibility determinations and initial licensing decisions.
502.9(272C)	Licensure by verification
502.10(272C)	Licensure by work experience in jurisdictions without licensure requirements.

CHAPTER 503

ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
COMPLAINTS AND DISCIPLINE

503.1(103)	Complaints
503.2(103)	Discipline
503.3(103)	Action against an unlicensed person
503.4(103)	Appeals

CHAPTER 504

STANDARDS FOR ELECTRICAL WORK

504.1(103)	Installation requirements
------------	---------------------------

CHAPTER 505

ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—EDUCATION

DIVISION I

POSTSECONDARY ELECTRICAL EDUCATION PROGRAMS

505.1 to 505.100	Reserved
505.101(103)	Program approval
505.102(103)	Standards for postsecondary electrical education programs

DIVISION II

CONTINUING EDUCATION

505.103 to 505.200	Reserved
505.201(103)	Continuing education requirements
505.202(103)	Course approval
505.203(103)	Requirements for continuing education programs

CHAPTERS 506 to 549

Reserved

CHAPTER 550

ELECTRICAL INSPECTION PROGRAM—ORGANIZATION AND ADMINISTRATION

550.1(103)	Electrical inspection program
550.2(103)	Communications
550.3(103)	Organization
550.4(103)	Qualifications of inspectors
550.5(103)	Fees

CHAPTER 551

ELECTRICAL INSPECTION PROGRAM—DEFINITIONS

- 551.1(103) Applicability
- 551.2(103) Definitions

CHAPTER 552

ELECTRICAL INSPECTION PROGRAM—PERMITS AND INSPECTIONS

- 552.1(103) Required permits and inspections
- 552.2(103) Request for inspection
- 552.3(103) Scheduling of inspections
- 552.4(103) Report of inspection
- 552.5(103) Appeals

CHAPTER 553

CIVIL PENALTIES

- 553.1(103) Civil penalty—when applicable
- 553.2(103) Civil penalty—notice
- 553.3(103) Civil penalty—appeal

CHAPTERS 554 to 558

Reserved

CHAPTER 559

ELECTRICAL INSPECTION PROGRAM—UTILITY NOTIFICATIONS
AND RESPONSIBILITIES OF UTILITIES

- 559.1(103) Notification of utility

CHAPTERS 560 to 599

Reserved

CHAPTER 600

STATEWIDE INTEROPERABLE COMMUNICATIONS SYSTEM BOARD

- 600.1(80) Establishment of board
- 600.2(80) Definitions
- 600.3(80) Statewide interoperability coordinator
- 600.4(80) Board procedures
- 600.5(80) Administrative procedures
- 600.6(80) Committees
- 600.7(80) Board finances
- 600.8(80) Contracts
- 600.9(80) Competitive grants
- 600.10(80) Additional information

CHAPTER 61
FIRE SAFE CIGARETTE CERTIFICATION PROGRAM

661—61.1(101B) Definitions. For purposes of these rules, the following definitions apply:

“*Certified fire safe cigarette*” means a unique cigarette brand style that meets the following criteria:

1. The unique cigarette brand style has been tested in accordance with the test method prescribed in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4.
2. The unique cigarette brand style meets the performance standard specified in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4.
3. A written certification for the unique cigarette brand style has been filed by the manufacturer with the department and in accordance with rule 661—61.4(101B).
4. Packaging for the unique cigarette brand style has been marked in accordance with rule 661—61.5(101B).

“*Cigarette*” means a cigarette as defined in Iowa Code section 453A.1, but does not mean a tobacco product as defined in Iowa Code section 453A.1.

“*Department*” means the same as defined in Iowa Code section 101B.2(3).

“*Fire safe cigarette*” means a cigarette certified pursuant to this chapter.

“*Manufacturer*” means the same as defined in Iowa Code section 101B.2(4).

“*Sale*” means the same as defined in Iowa Code section 101B.2(8).

“*Unique cigarette brand style*” means a cigarette with a unique combination of the following:

1. Brand or trade name.
2. Style, such as light or ultra light.
3. Length.
4. Circumference.
5. Flavor, such as menthol or chocolate, if applicable.
6. Presence or absence of a filter.
7. Type of package, such as soft pack or box.

“*Wholesaler*” means the same as defined in Iowa Code section 101B.2(10).

[ARC 7870C, IAB 4/17/24, effective 5/22/24]

661—61.2(101B) Certification and fee. A certification application and fee shall be submitted to the department online pursuant to Iowa Code section 101B.5. An application is incomplete unless all required information is submitted, including required attachments and fees. Applications will not be processed until complete.

[ARC 7870C, IAB 4/17/24, effective 5/22/24]

661—61.3(101B) Test method, performance standard, test report. Unless otherwise excepted therein, each unique cigarette brand style submitted for certification under this chapter shall meet all of the criteria in Iowa Code section 101B.4.

61.3(1) Alternate test method. A manufacturer proposing an alternate test method and performance standard pursuant to this rule will submit such proposal to the department on a form provided by the department.

a. The department will approve or deny the proposed alternate test method and performance standard within 60 days of receipt of such proposal and will send notification of such approval or denial by certified mail, return receipt requested, to the address provided by the manufacturer.

b. The department may approve an alternate test method and performance standard if it is determined to be equivalent to the test method and performance standard prescribed in Iowa Code section 101B.4. If an alternate test method and performance standard is approved pursuant to this rule, the manufacturer may employ the alternate test method and performance standard to certify the cigarette in accordance with Iowa Code section 101B.4.

61.3(2) Acceptance of alternate test method approved by another state. A manufacturer proposing an alternate test method and performance standard approved by another state will use the procedure

specified in subrule 61.3(1) and provide documentation verifying that the alternate test method and performance standard have been approved by another state as provided in Iowa Code section 101B.4(9).

61.3(3) Retention of reports of testing. A manufacturer shall maintain copies of all test reports pursuant to Iowa Code section 101B.4(10).

61.3(4) Testing performed or sponsored by the department. Testing performed or sponsored by the department will be conducted in accordance with Iowa Code section 101B.4.

61.3(5) Changes to the manufacture of a certified fire safe cigarette. If a manufacturer with any cigarette certified under this chapter makes any changes to the cigarette thereafter, retesting of the cigarette may be required in accordance with Iowa Code section 101B.5(6).

[ARC 7870C, IAB 4/17/24, effective 5/22/24]

661—61.4(101B) Notification of certification. A manufacturer or wholesaler shall provide copies of certifications pursuant to Iowa Code section 101B.6.

[ARC 7870C, IAB 4/17/24, effective 5/22/24]

661—61.5(101B) Marking fire safe cigarette packaging. Cigarettes that have been certified in accordance with Iowa Code section 101B.5 shall be marked as provided in Iowa Code section 101B.7. The recommended marking is the letters “FSC” displayed in accordance with any of the methods described in Iowa Code section 101B.7.

[ARC 7870C, IAB 4/17/24, effective 5/22/24]

661—61.6(17A) Violations and penalties. A person who violates any provision of Iowa Code chapter 101B or of this chapter is subject to a civil penalty of an amount no greater than specified by Iowa Code section 101B.8. Notice of a civil penalty will be provided by mail or by personal service. A person subject to a civil penalty may appeal the imposition of the penalty by requesting a contested case hearing, in writing, within 20 days. An appeal of a civil penalty is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

[ARC 7870C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 101B.

[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]

[Filed ARC 5527C (Notice ARC 5339C, IAB 12/30/20), IAB 3/24/21, effective 4/28/21]

[Filed ARC 7870C (Notice ARC 7330C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 235
LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS

[Prior to 11/18/09, see 661—Ch 5]

661—235.1(101A) Definitions. Definitions set forth in Iowa Code section 101A.1 are incorporated herein by reference. For purposes of these rules, the following definitions also apply:

“Actual possession” means when a person is in immediate possession or control of explosive materials (e.g., an employee who physically handles explosive materials as part of the production process; or an employee, such as a blaster, who actually uses explosive materials).

“Applicant” means an individual employed by a commercial explosive contractor or person associated with a commercial explosive contractor who meets the definition of “employee possessor” or “responsible person” as defined in this chapter.

“Commercial explosive blaster” or *“blaster”* means any individual who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material.

“Commercial explosive contractor” or *“contractor”* means any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment.

“Constructive possession” means when an employee lacks direct physical control over explosive materials but exercises dominion and control over the explosive materials, either directly or indirectly through others (e.g., an employee at a construction site who keeps keys for magazines in which explosive materials are stored, or who directs the use of explosive materials by other employees; or an employee transporting explosive materials from a licensee to a purchaser).

“Employee possessor” means an individual who has actual or constructive possession of explosive materials during the course of the individual’s employment.

“Offense directly relates” refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.

2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

“Responsible person” means an individual who has the power to direct the management and policies of the commercial explosive contractor pertaining to explosive materials. For example, responsible persons generally include sole proprietors and explosives facility site managers. In the case of a corporation, association, or similar organization, responsible persons generally include corporate directors and officers, as well as stockholders who have the power to direct management and policies.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.2(101A) Licenses required. Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive contractor license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material shall be required to hold a current commercial explosive blaster license issued pursuant to this chapter. A commercial explosive blaster license is not required to authorize a person solely to transport explosives from one location to another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

NOTE: Iowa Code section 101A.1 excludes “fireworks” from the definition of “explosive.” Consequently, working with fireworks does not necessitate a blaster license, nor does the manufacture, importation, distribution, sale, or commercial use of fireworks necessitate a commercial explosive license.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.3(101A,272C) License application process.

235.3(1) *Application for commercial explosive contractor or commercial explosive blaster license.* Applications for a commercial explosive contractor license or a commercial explosive blaster license are available on the department's website. The application shall be filed no later than 30 days prior to the date of beginning work in this state or on which an existing license expires.

235.3(2) *Submission of application and required information.* A completed application for a license shall be submitted to the department at the address specified on the department's website. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

235.3(3) *License fee.* Each license application shall be accompanied by a license fee as set forth in Iowa Code section 101A.2(2). The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

235.3(4) *License duration.* Licensure will normally be for three years and expire on December 31 of the third year after it is issued, except that a license issued in December of any year expires on December 31 after two years have passed from the date on which the license was issued.

235.3(5) *Criminal history.* An applicant is subject to a national criminal history check pursuant to Iowa Code section 101A.2(3).

235.3(6) *Veterans and military service members.* Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a commercial explosive contractor or blaster should apply for licensure in accordance with 481—Chapter 7.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.4(101A) Issuance of commercial explosive contractor license. A commercial explosive contractor license will be issued if all of the following conditions have been satisfied:

235.4(1) All items required on the application have been completed, and any items the department deems necessary to verify have been appropriately verified.

235.4(2) No applicant for whom commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective contractor licensee may:

- a. Have been convicted of any offense involving explosives or firearms;
- b. Have been previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c. Be an unlawful user of or be addicted to controlled substances;
- d. Have been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely, both toward themselves and others.

235.4(3) The applicant has at least one responsible person or employee licensed as a commercial explosive blaster.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.5(101A) Issuance of a commercial explosive blaster license. A commercial explosive blaster license will be issued if all of the following conditions have been satisfied:

235.5(1) The applicant is an employee of a licensed commercial explosive contractor.

a. If, after a commercial explosive blaster license is issued, such employment ceases, the employing contractor and the commercial explosive blaster shall each notify the department within three business days of the final day of employment that the employment has ceased, and the commercial explosive blaster license shall be suspended until the commercial explosive blaster is again employed with a licensed commercial explosive contractor.

b. Upon reemployment, the employer shall notify the department that the commercial explosive blaster is again employed with a licensed commercial explosive contractor, and the department will

reinstate the commercial explosive blaster license as soon as practical, provided that the commercial explosive blaster is not disqualified from holding a license pursuant to any provision of this chapter.

c. If the department finds that a commercial explosive blaster is disqualified from holding a license, the department shall revoke the license.

235.5(2) All items required on the application have been completed and any items the department deems necessary to verify have been verified and found to be true.

235.5(3) The applicant is not or has not been:

a. Convicted of any offense involving explosives or firearms;

b. Previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;

c. An unlawful user of or addicted to controlled substances;

d. Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution; or

e. A recipient of inpatient treatment for any mental illness in the past three years or a recipient of treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely toward themselves or others.

235.5(4) The applicant has satisfactorily completed training approved by the department for the handling and use of explosives as described on the department's website. The training may be provided by the employer or by a reputable third party knowledgeable about the storage, handling, and use of explosives. The department may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive contractor licensee.

EXCEPTION: The department may issue a commercial explosive blaster license to a person licensed or certified as a blaster in another state, provided that the department finds that the requirements for licensing or certification in the other state are comparable to those provided for in this rule.

235.5(5) An applicant for a renewal license has completed continuing education from a nationally recognized institution in professional explosives storage, handling, and use.

235.5(6) The applicant is 21 years of age or older.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.6(272C) Licensure of persons licensed in other jurisdictions.

235.6(1) For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

235.6(2) Notwithstanding any other provision of law, a commercial explosive contractor license or commercial blaster license will be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

a. The person is currently licensed by at least one other issuing jurisdiction as a commercial explosive contractor or commercial blaster with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

b. The person has been licensed by another issuing jurisdiction for at least one year.

c. When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

d. The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

e. The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

f. The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person,

the department shall determine if the cause for the action was corrected and the matter resolved. If the department determines that the matter has not been resolved by the jurisdiction imposing discipline, the department shall not issue or deny a license to the person until the matter is resolved.

g. The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the department shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

h. The person pays all applicable fees.

i. The person does not have a criminal history that would prevent the person from holding the commercial explosive contractor license or commercial blaster license applied for in this state.

235.6(3) A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the department marshal.

235.6(4) This rule does not apply to any of the following:

a. The ability of the department to require the submission of fingerprints or completion of a criminal history check.

b. The ability of the department to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the department requires an applicant to take and pass an examination specific to the laws of this state, the department will issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

235.6(5) Except as provided in subrule 235.7(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a commercial explosive contractor or commercial blaster may be considered to have met any education, training, or work experience requirements imposed by the department in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the department.

235.6(6) A person applying for a license in this state under the requirements of this subrule shall submit the request in writing to the department providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.7(101A) Inventory and records. Each licensed commercial explosive business shall maintain records as referenced in the National Fire Protection Association (NFA) chapter 495, "Explosive Materials Code," as adopted by reference in rule 661—231.1(101A).

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.8(101A) Complaints. Complaints regarding the performance of any licensed contractor or blaster, failure of a licensed contractor or blaster to meet any of the requirements established in Iowa Code chapter 101A or this chapter or any other provision of law, or operation as a commercial explosive contractor or commercial blaster without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor or blaster against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

661—235.9(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.

235.9(1) The department may refuse to issue a contractor or blaster license sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

a. Finding that the applicant or licensee is disqualified by any provision of federal or Iowa law from possessing explosives, firearms, or offensive weapons.

- b.* Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.
- c.* Finding that the applicant or licensee falsified information in the current or any previous license application.
- d.* Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely, both toward themselves and others.
- e.* Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A, this chapter, or 661—Chapter 231.
- f.* Receipt of a certificate of noncompliance from the child support recovery unit of the Iowa department of health and human services, pursuant to the procedures set forth in Iowa Code chapter 252J.
- g.* Receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue, pursuant to Iowa Code chapter 272D.
- h.* Conviction of a felony offense, if the offense directly relates to the profession or occupation of the applicant, in the courts of this state or another state, territory or country. Conviction as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.
- i.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the applicant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- j.* Willful or repeated violations of the provisions of this chapter.
- k.* Disqualifications pursuant to Iowa Code section 272C.15.

235.9(2) An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit or a certificate of noncompliance from the department of revenue may appeal that action by requesting a contested case hearing, in writing, within 20 days of the department's determination. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or the department of revenue are subject to the procedures set forth in 481—Chapter 8.

235.9(3) The department will notify the employing commercial explosive contractor licensee of the denial, suspension, or revocation of a commercial explosive blaster license.

[ARC 7871C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 101A and 272C.

[Filed ARC 8303B (Notice ARC 8155B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

[Filed ARC 5395C (Notice ARC 5280C, IAB 11/18/20), IAB 1/13/21, effective 2/17/21]

[Filed ARC 7871C (Notice ARC 7332C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 265

CONSUMER FIREWORKS RETAIL SELLER LICENSING AND WHOLESALER REGISTRATION

661—265.1(10A) Definitions. The following definitions apply:

“*APA 87-1*” means the same as defined in Iowa Code section 10A.519(1) “a.”

“*Commercial fireworks*” means large firework devices that are explosive materials intended for use in firework displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as set forth in 27 CFR 555 and 49 CFR 172 in effect on January 1, 2001, and APA Standard 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics.

“*Community group*” means the same as defined in Iowa Code section 10A.519(1) “b.”

“*Consumer fireworks*” means the same as defined in Iowa Code section 10A.520(1) “a.”

“*Display fireworks*” means the same as defined in Iowa Code section 727.2(1) “b.”

“*First-class consumer fireworks*” means the same as defined in Iowa Code section 10A.519(1) “c.”

“*NFPA 1124*” means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

“*Retailer*” means the same as defined in Iowa Code section 10A.519(1) “d.”

“*Second-class consumer fireworks*” means the same as defined in Iowa Code section 10A.519(1) “e.”

“*Serious violation*” means any of the following activities occurring at a licensed retail location selling consumer fireworks:

1. Commission of a criminal offense, punishable by one year or more incarceration.
2. Selling consumer fireworks to a minor.
3. Selling commercial fireworks.

“*Wholesaler*” means the same as defined in Iowa Code section 10A.520(1) “b.”

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.2(10A) Sale of consumer fireworks—safety standards. Any retailer or community group offering for sale at retail any first-class or second-class consumer fireworks, as described in American Pyrotechnics Association (APA) Standard 87-1, as published in December 2001, shall do so in accordance with the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition (hereinafter referred to as “APA 87-1” and “NFPA 1124,” respectively).

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.3(10A) Sales allowed. A retailer or community group that is issued a license pursuant to this chapter is authorized to sell consumer fireworks as defined in this chapter. However, sales are permitted only as follows.

265.3(1) Prohibited sale or transfer to persons under 18 years of age.

a. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under 18 years of age.

b. A person, firm, partnership or corporation shall not sell consumer fireworks to a person who is less than 18 years of age.

265.3(2) Exceptions for persons under 18 years of age.

a. A retailer selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall supervise any employees who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks in the course of their employment for the retailer.

b. A community group selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall ensure that any persons who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks by the community group, whether the persons less than

18 years of age are paid or unpaid, shall do so under the direct supervision of an adult member of the community group.

265.3(3) *Dates of sale.* A retailer or community group may sell consumer fireworks in accordance with Iowa Code section 10A.519(4) “c.”
[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.4(10A) License fees—consumer fireworks seller licenses.

265.4(1) *Fee schedule.* The fee schedule for consumer fireworks seller licenses is as provided in Iowa Code section 10A.519(3). License fees shall be paid before issuance of a license.

265.4(2) *Administrative license fee.* A nonrefundable administrative fee of \$100 is required with every application for a consumer fireworks retail sales license. The \$100 fee will be applied to the license fee if the license is issued.

265.4(3) *Changing license class or amount.* If a retailer or consumer group is issued a license for the retail sale of one class or amount of consumer fireworks, and changes to a class or amount that requires a higher license fee, the retailer or consumer group shall pay only the difference in the two fees. The license for the lower class will be invalid after the issuance of the new license.

265.4(4) *No refund after issuance.* Payment is final when the license is issued, and the fee will not be refunded.
[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.5(10A) Application and issuance of license.

265.5(1) *Application form and instructions.* The application for a license for retail sales of consumer fireworks shall be made to the department as described on the department’s website. A license is required for each location where the retail sales of consumer fireworks are conducted.

265.5(2) *Application requirements.* Applications and the accompanying plans must include all required information and must be prepared in accordance with the application instructions. An application will not be processed until all required information is received in the form required by the instructions.

265.5(3) *Proof of insurance.* Applicants must provide proof of and maintain commercial general liability insurance with minimum per occurrence coverage of at least one million dollars and aggregate coverage of at least two million dollars.

265.5(4) *Issuance and display of license.* If all of the requirements are met and the correct license fee is paid, the department will issue the license. The license must be clearly displayed at the location where the retail sales of consumer fireworks for which the license was issued are conducted.
[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.6(10A) Fireworks site plan review, approval, and inspection.

265.6(1) *Plan approval.* The retailer or community group shall submit to the department the proposed plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the sale and storage of fireworks. Requirements and exceptions for site plan submittal and approval are outlined on the department’s website.

NOTE: Regarding the incorporation of the reference to NFPA 102, 1995 edition, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures into NFPA 1124 concerning tents and membrane structures, Sections 7.3.5 and 7.4.8.1.2 of NFPA 1124 should be read together with Section A.7.4.8.1.2 in the Explanatory Material in Annex A to NFPA 1124 and used for the purposes of (1) determining the requirements for the means of egress in tents and membrane structures except as modified by Section 7.3.14 of NFPA 1124 for special requirements for the retail sales of consumer fireworks, and (2) to prohibit the use, discharge, or ignition of fireworks within the tent or membrane structure. The other provisions of NFPA 1124, including the sections relating to the retail sales of consumer fireworks in tents or membrane structures, remain applicable.

265.6(2) *Plans not required.* In the discretion of the department, plans may not be required in the following circumstances:

a. For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the department upon request.

b. For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, a new or updated plan shall be submitted.

c. For permanent buildings that are currently classified as a retail occupancy and in which second-class consumer fireworks are the only fireworks that are offered for sale.

265.6(3) Inspections.

a. Every location and any building or structure where the retail sales of consumer fireworks are conducted or where consumer fireworks are stored is subject to an inspection at any time while engaged in the retail sale of consumer fireworks.

b. Prior to the sale of consumer fireworks, each retail location shall satisfy one of the following requirements:

(1) A site inspection of the retail location by the department or the department's designee.

(2) Attestation at the time of the application by the person submitting the application that the retail location will comply with NFPA 1124 and these rules.

c. If a retail location license is revoked, the location shall be inspected in accordance with subparagraph 265.6(3) "b"(1) prior to engaging in the sale of consumer fireworks the following year.

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.7(10A) Unauthorized use of license. Only the retailer or the community group that is issued the license may use that license for the retail sales of consumer fireworks. Each license will be issued for a specific location. The license may not be transferred to or used at any other location.

265.7(1) If the retailer or community group to which the license is issued changes the location where the retail sale of consumer fireworks will be sold, the retailer or community group shall submit a new application and all required information for the new site and pay the applicable license fee. The application must be reviewed and approved in order for a new license to be issued.

265.7(2) The licensed retailer or community group or the authorized representative of the licensed retailer or community group must be personally present at all times when consumer fireworks are being sold.

265.7(3) No unlicensed retailer, community group, person, group of people, business, or other for-profit or nonprofit entity may use the license issued to another retailer or community group for the retail sales of consumer fireworks, unless the licensed retailer or community group or the authorized representative of the licensed retailer or community group is personally present at all times when consumer fireworks are being sold.

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.8(10A) Revocation of license. If the department or department's designee determines during a physical site inspection that a serious violation has occurred, the license for that retail location may be immediately revoked. Vendors will be given the opportunity to remedy violations that are not deemed serious violations.

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.9(10A) Consumer fireworks wholesalers—registration—safety—insurance.

265.9(1) Annual registration. Each wholesaler shall register with the department annually by completing and submitting the annual registration form and paying the fee as required by Iowa Code section 10A.520(3).

265.9(2) Safety regulations—storage and transfer. Each wholesaler shall comply with all of the requirements of NFPA 1124 for the storage and transfer of consumer fireworks.

265.9(3) Insurance required. While operating as a wholesaler, each wholesaler shall maintain commercial general liability insurance with minimum per-occurrence coverage of at least \$1 million and aggregate coverage of at least \$2 million.

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.10(10A) Consumer fireworks fee fund. All fees received from the licenses issued for the retail sale of consumer fireworks and the annual registration fees received from wholesalers of consumer fireworks will be deposited into the consumer fireworks fee fund pursuant to Iowa Code section 10A.519. The department will use the fees deposited into this fund to fulfill the responsibilities of the department for the administration and enforcement of Iowa Code sections 10A.519 and 10A.520.

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

661—265.11(10A) Local fire protection and emergency medical service providers grant program. The local fire protection and emergency medical service providers grant program is established by Iowa Code section 10A.519(7). The grant program is funded with only those moneys from the consumer fireworks fee fund that are not needed by the department to fulfill the responsibilities of the department for the administration and enforcement of Iowa Code sections 10A.519 and 10A.520.

265.11(1) Definitions. The following definitions apply.

“*Emergency medical services*” means the same as defined in Iowa Code section 147A.1(5).

“*Fire protection service*” means volunteer or paid fire departments.

265.11(2) Authorized applicants. Any local fire protection service provider or local emergency medical service provider in the state of Iowa may apply for grant funds from the local fire protection and emergency medical service providers grant program.

265.11(3) Authorized purposes of grant funds. The grant funds in the local fire protection and emergency medical service providers grant program may be used for the following in order of priority:

- a. To establish or provide fireworks safety education programming to members of the public.
- b. To purchase necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.
- c. To purchase necessary enforcement, protection, or emergency response equipment.

265.11(4) Application. An application for grant funds should be made to the department. The application form may be found on the department’s website. Applications must be received on or before June 30 of each year. The application will include all of the following:

a. The application shall be signed by a person who is an official, owner, or another person who has authorization to sign on behalf of the fire protection service or the emergency medical service provider entity.

b. The specifics of the proposed use of the grant funds.

(1) If the application is for equipment, the applicant should include a detailed description of the equipment, the company or entity from which the purchase will be made, the cost, and a justification as to how this equipment purchase fits the purposes of the grant program.

(2) If the application is for safety education programming, the application should include a detailed description of the programming, the specific people who will be providing the programming, and a description of the materials to be purchased and used.

c. The amount of grant funds requested.

265.11(5) Approval of application. The director of the department will review the application and determine whether to make the award of grant funds. The director of the department has the sole discretion in determining whether or not to award funds from the grant program to the applicant and the amount of funds awarded to each applicant. Factors to be considered in making an award of grant funds include, but are not limited to:

a. The amount of grant funds available.

b. The number of applicants for grant funds.

c. The proposed use of the grant funds and whether the use is consistent with the approved program purposes.

d. Whether the applicant has previously been approved for grant funds from this program.

e. The applicant's use of any previous grant funds received from the program.

265.11(6) *Award of tangible property.* Should the department determine that the purpose of the grant program is better served by awarding tangible property, such as equipment, rather than funds, the department has the authority to award tangible property purchased with grant funds rather than disperse grant funds to the applicants.

265.11(7) *Report required.* All grant recipients shall file a report with the department that lists the amount of grant funds received and the purpose(s) for which the grant funds were spent. The department may conduct an inspection or audit to determine compliance with the rules and purposes of the grant program, in addition to any other authorized audits.

[ARC 7872C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 10A.519 and 10A.520.

[Filed Emergency ARC 3124C, IAB 6/21/17, effective 5/31/17]

[Filed ARC 3592C (Notice ARC 3123C, IAB 6/21/17), IAB 1/17/18, effective 2/21/18]

[Filed ARC 5255C (Notice ARC 5105C, IAB 7/29/20), IAB 11/4/20, effective 12/9/20]

[Filed ARC 6462C (Notice ARC 6335C, IAB 6/1/22), IAB 8/10/22, effective 9/14/22]

[Filed ARC 7872C (Notice ARC 7331C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 275
LICENSING OF FIRE PROTECTION SYSTEM CONTRACTORS

661—275.1(100C) Establishment of program. The fire protection system contractor license is established pursuant to Iowa Code chapter 100C.

275.1(1) Licensure required. No person shall act as a fire extinguishing system contractor without being currently licensed as a fire protection system contractor by the department.

275.1(2) Endorsement. The licensure of each contractor will carry an endorsement for one or more of the following:

- a. Automatic sprinkler system installation.
- b. Special hazards systems installation.
- c. Preengineered dry chemical or wet agent fire suppression systems installation.
- d. Preengineered water-based fire suppression systems in one- and two-family dwellings installation.
- e. Automatic sprinkler system maintenance inspection.
- f. Special hazards system maintenance inspection.
- g. Preengineered dry chemical or wet agent fire suppression systems maintenance inspection.
- h. Preengineered water-based fire suppression systems in one- and two-family dwellings maintenance inspection.

Any person acting as a fire extinguishing system contractor shall do so only in relation to systems covered by the endorsements on the contractor's license.

275.1(3) Length of licensure. A license is normally for one year and expires on March 31 each year. A license which is effective on a date other than April 1 is effective on the date on which the license is issued and expires on March 31 of the following year.

[ARC 7873C, IAB 4/17/24, effective 5/22/24]

661—275.2(100C) Definitions. The following definitions apply:

"Aerosol fire extinguishing system" means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

"Automatic dry-chemical extinguishing system" means the same as defined in Iowa Code section 100C.1(4).

"Automatic fire extinguishing system" means the same as defined in Iowa Code section 100C.1(5).

"Automatic sprinkler system" means the same as defined in Iowa Code section 100C.1(6).

"Carbon dioxide extinguishing system" means the same as defined in Iowa Code section 100C.1(7).

"Clean agent" means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

"Deluge system" means the same as defined in Iowa Code section 100C.1(8).

"Dry chemical" means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

"Dry pipe sprinkler system" means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

"Fire extinguishing system contractor," "fire protection system contractor," or *"contractor"* means the same as defined in Iowa Code section 100C.1(10).

"Foam extinguishing system" means the same as defined in Iowa Code section 100C.1(11).

"Halogenated extinguishing system" means the same as defined in Iowa Code section 100C.1(12).

“Hybrid-inert water mist system” means a system that combines the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

“Layout” means drawings, calculations and component specifications to achieve the specified system design installation. “Layout” does not include design.

“Listed” means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

“Maintenance inspection” means the same as defined in Iowa Code section 100C.1(13).

“Preengineered dry chemical or wet agent fire suppression system” means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer’s installation manual, which is referenced as part of the listing.

“Preengineered water-based system” means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

“Responsible managing employee” means the same as defined in Iowa Code section 100C.1(14).

“Special hazards system” means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

“Wet agent” or *“wet chemical”* means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

[ARC 7873C, IAB 4/17/24, effective 5/22/24]

661—275.3(100C) Responsible managing employee. Each fire extinguishing system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 275.1(2). If more than one responsible managing employee is designated, the contractor will indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

275.3(1) The responsible managing employee or employees shall be designated in the application for licensure, and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the department, in writing, within 30 calendar days.

275.3(2) If a responsible managing employee is no longer acting in that role and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee will become the responsible managing employee and the contractor shall so notify the department, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the department will indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

275.3(3) If a responsible managing employee designated by a fire extinguishing system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the department, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity. If the department has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the department shall suspend the license of the fire protection system contractor.

275.3(4) Training requirements. A responsible managing employee or an alternate responsible managing employee shall meet one of the requirements for the following endorsements:

- a.* Automatic sprinkler system installation:
 - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or
 - (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in water-based systems layout.
- b.* Special hazards system installation:
 - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or
 - (2) Current certification by the NICET at level III or above in special hazard systems.
- c.* Preengineered dry chemical or wet agent fire suppression system installation:
 - (1) Current certification by the NICET at level II or above in special hazard systems, or
 - (2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or
 - (3) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs.
- d.* Preengineered water-based fire suppression system in one- and two-family dwellings installation:
 - (1) Current certification by the NICET at level II or above in special hazard systems, or
 - (2) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs.
- e.* Automatic sprinkler system maintenance inspection:
 - (1) Current certification from the NICET at level II in water-based system layout, or
 - (2) Current certification by the NICET at level II or above in inspection and testing of water-based systems.
- f.* Special hazards system maintenance inspection:
 - (1) Current certification by the NICET at level II or above in special hazard systems.
 - (2) Reserved.
- g.* Preengineered dry chemical or wet agent fire suppression system maintenance inspection:
 - (1) Current certification by the NICET at level I or above in special hazard systems, or
 - (2) Current certification by the NAFED in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or
 - (3) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects.
- h.* Preengineered water-based fire suppression system maintenance inspection:
 - (1) Current certification by the NICET at level I or above in special hazard systems, or
 - (2) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects.

275.3(5) Training or testing approval. Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 275.3(4). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm or organization seeking to obtain such approval will apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department is listed on the department's licensing website.

275.3(6) License applicability. Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

- a. Receipt of new or renewed license issued by the department to the applicant, or
- b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

275.3(7) Portable fire extinguisher requirements. Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

275.3(8) Licensure of persons licensed in other jurisdictions. A fire protection system contractor license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

[ARC 7873C, IAB 4/17/24, effective 5/22/24]

661—275.4(100C) License requirements. A fire extinguishing system contractor shall meet all of the following requirements in order to receive licensure from the department and continue to meet all requirements throughout the period of licensure. The contractor shall notify the department, in writing, within 30 calendar days if the contractor fails to meet any requirement for licensure.

275.4(1) The contractor shall designate one or more responsible managing employees as provided in rule 661—275.3(100C).

275.4(2) The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

a. The carrier of any insurance coverage maintained to meet this requirement shall notify the department 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of a fire extinguishing system that cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

275.4(3) The contractor shall maintain current registration as a contractor with the labor services division of the Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150. The contractor shall provide a copy of the contractor's current registration from the Iowa workforce development department with the contractor's application for licensure.

EXCEPTION: A contractor will not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of "contractor" for purposes of Iowa Code chapter 91C and 875—Chapter 150. Written documentation of such exemption must be provided to the department at the time of application for licensure as a fire protection system contractor.

275.4(4) The contractor shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

275.4(5) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

275.4(6) Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a fire protection system contractor shall apply for licensure following 481—Chapter 7.

[ARC 7873C, IAB 4/17/24, effective 5/22/24]

661—275.5(100C) Application and fees.

275.5(1) Application. Any contractor seeking licensure as a fire protection system contractor shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or the department's website. The application form shall be submitted with all required attachments and the required application fee. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

275.5(2) License fee.

- a. The license fee is \$500 for one year.
- b. If an application for licensure provides for more than one responsible managing employee pursuant to rule 661—275.3(100C), there will be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for licensure provides for more than one endorsement as provided in subrule 275.1(2), there will be an additional fee of \$50 for each endorsement beyond the first.
- c. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

275.5(3) Payment. The license fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

275.5(4) Amended license.

- a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended license.
- b. A contractor will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:
 - (1) A change in the designation of a responsible managing employee;
 - (2) A change in insurance coverage; or
 - (3) A change in any other material information included in or with the initial or renewal application.A change in the address of the business is a material change.
- c. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

275.5(5) Attachments. Required attachments to the application for licensure are outlined on the department's website.

[ARC 7873C, IAB 4/17/24, effective 5/22/24]

661—275.6(100C) Complaints. Complaints regarding the performance of any licensed contractor, failure of a licensed contractor to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as a fire extinguishing system contractor without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

[ARC 7873C, IAB 4/17/24, effective 5/22/24]

661—275.7(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. The department may deny, suspend, or revoke the license of a contractor, or assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as a fire extinguishing system contractor is violated.

275.7(1) Denial. The department may deny an application for licensure for reasons including, but not limited to:

a. If the applicant makes a false statement on the application form or in any other submission of information required for license. “False statement” means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as a fire extinguishing system contractor in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire extinguishing system contractor and if the basis of that action reflects upon the integrity of the applicant in operating as a fire extinguishing system contractor. If an applicant is found to have been previously barred for cause from operating as a fire extinguishing system contractor in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensed contractor. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. “Conviction” as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee’s profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

275.7(2) Suspension. A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as a fire extinguishing system contractor in this state. Failure to provide any notice to the department as provided in these rules will be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions that were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

275.7(3) Revocation.

a. A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation that creates an imminent danger to the safety or health of individuals protected by a fire extinguishing system incorrectly installed by a licensed contractor or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license.

b. A new application for licensure from a contractor whose license had previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition that was a basis for the revocation has been corrected. The department may specify in the revocation order a longer period than one year before a new application for licensure may be considered. When a new application for licensure from a contractor whose license was previously revoked is being considered, the applicant may be denied licensure based upon the same information that was the basis for revocation even after any such period established by the department has expired.

275.7(4) Disqualifications for criminal convictions limited. A person’s conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

275.7(5) Civil penalties. The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be

imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

275.7(6) Appeals. Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensed contractor under this rule may be appealed by the contractor within 14 days of receipt of the notice by submitting a written request for a contested case appeal to the department. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

[ARC 7873C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 100C.

[Filed 5/5/06, Notice 3/29/06—published 5/24/06, effective 7/1/06]

[Filed emergency 9/20/06—published 10/11/06, effective 10/1/06]

[Filed emergency 3/22/07—published 4/11/07, effective 4/1/07]

[Filed emergency 6/30/08—published 7/30/08, effective 7/1/08]

[Editorial change: IAC Supplement 6/17/09]

[Filed ARC 5396C (Notice ARC 5273C, IAB 11/18/20), IAB 1/13/21, effective 2/17/21]

[Filed ARC 7873C (Notice ARC 7334C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 276
LICENSING OF FIRE PROTECTION SYSTEM TECHNICIANS

661—276.1(100D) Establishment of program. The fire protection system technician license is established pursuant to Iowa Code chapter 100D.

276.1(1) Licensing required. A person shall not act as a fire protection system installer and maintenance worker without being currently licensed as a fire protection system technician by the department, except as provided in Iowa Code sections 100D.2(1) and 100D.11.

a. For purposes of Iowa Code section 100D.2(1) “*a*,” “direct supervision” means that the person supervising the person performing the work shall be on the job site while the work being supervised is performed.

b. For purposes of Iowa Code section 100D.2(1) “*d*,” the work performed that is subject to the provisions of this chapter must be within the scope of the endorsement(s) of the licensed contractor employing the responsible managing employee.

276.1(2) Endorsement. Any person acting as a fire protection system installer and maintenance worker shall do so only in relation to systems and work covered by the endorsements on the person’s license. The license of each technician shall carry an endorsement for one or more of the following:

- a.* Automatic sprinkler system installation.
- b.* Special hazards system installation.
- c.* Preengineered dry chemical or wet agent fire protection systems installation.
- d.* Preengineered water-based fire protection systems in one- and two-family dwellings installation.
- e.* Automatic sprinkler system maintenance inspection.
- f.* Special hazards system maintenance inspection.
- g.* Preengineered dry chemical or wet agent fire protection systems maintenance inspection.
- h.* Preengineered water-based fire protection systems in one- and two-family dwellings maintenance inspection, or
- i.* Fire protection technician trainee.

276.1(3) Length of licensure. Licensure shall normally be for two years and will expire on March 31 of the second year after the license has been issued. A license that is effective on a date other than April 1 will be effective on the date on which the license is issued and will expire the next March, after one year has passed from the date on which the license was issued. A technician trainee license may be renewed once and a person may work as a technician trainee for a maximum of four years.

[ARC 7874C, IAB 4/17/24, effective 5/22/24]

661—276.2(100D) Definitions. The following definitions apply:

“*Aerosol fire extinguishing system*” means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

“*Apprentice fire protection system installer and maintenance worker*” means the same as defined in Iowa Code section 100D.1(1).

“*Automatic fire extinguishing system*” means the same as defined in Iowa Code section 100C.1(5).

“*Automatic sprinkler system*” means the same as defined in Iowa Code section 100C.1(6).

“*Carbon dioxide extinguishing system*” means the same as defined in Iowa Code section 100C.1(7).

“*Clean agent*” means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

“*Deluge system*” means the same as defined in Iowa Code section 100C.1(8).

“*Department*” means the same as defined in Iowa Code section 100D.1(2).

“*Dry chemical*” means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

“Dry pipe sprinkler system” means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

“Fire extinguishing system contractor,” “fire protection system contractor,” or *“contractor”* means the same as defined in Iowa Code section 100D.1(4).

“Fire protection system” means the same as defined in Iowa Code section 100D.1(5).

“Fire protection system installation” means the same as defined in Iowa Code section 100D.1(6).

“Fire protection system installer and maintenance worker” or *“fire protection system technician”* means the same as defined in Iowa Code section 100D.1(8). A fire protection system technician shall be an employee of a fire protection system contractor or, if employed by anyone other than a fire protection system contractor, shall perform work requiring licensing as a fire protection system technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

“Fire protection system maintenance” means the same as defined in Iowa Code section 100D.1(7).

“Foam extinguishing system” means the same as defined in Iowa Code section 100C.1(11).

“Halogenated extinguishing system” means the same as defined in Iowa Code section 100C.1(12).

“Hybrid-inert water mist system” means a system that combines the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

“Layout” means drawings, calculations and component specifications to achieve the specified system design installation. *“Layout”* does not include design.

“Listed” means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of the production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

“Preengineered dry chemical or wet agent fire suppression system” means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer’s installation manual, which is referenced as part of the listing.

“Preengineered fire protection system” means the same as defined in Iowa Code section 100D.1(9).

“Preengineered water-based fire protection system” means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

“Responsible managing employee” means the same as defined in Iowa Code section 100D.1(10).

“Routine maintenance” means the same as defined in Iowa Code section 100D.1(11).

“Special hazards system” means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

“Wet agent” or *“wet chemical”* means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

[ARC 7874C, IAB 4/17/24, effective 5/22/24]

661—276.3(100D) Licensing requirements. A fire protection system installer and maintenance worker shall meet all of the following requirements in order to receive a license from the department and shall continue to meet all requirements throughout the period of licensure. A licensee shall notify the department, in writing, within 30 calendar days if the licensee fails to meet any requirement for licensure.

276.3(1) Compliance. Each licensee shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and in any political subdivision in which the licensee is performing work.

276.3(2) Training requirements. An applicant for a license shall meet one of the requirements for the following endorsements:

a. Automatic sprinkler system installation:

(1) Current certification by the National Inspection Testing and Certification Corporation (NITC) in the STAR Fire Sprinkler Fitting Mastery Examination, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in water-based system layout, or

(3) Current certification by the NICET at level I or above in inspection and testing of water-based systems.

b. Special hazards system installation:

(1) Current certification by the NICET at level I or above in special hazards systems.

(2) Reserved.

c. Preengineered dry chemical or wet agent fire protection system installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs, or

(4) Current certification by the Fire Protection Certification LTD (FPC) in commercial kitchen fire suppression system service, preengineered fire suppression maintenance, or both.

d. Preengineered water-based fire protection systems in one- and two-family dwellings installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs.

e. Automatic sprinkler system maintenance inspection:

(1) Current certification by the NITC in the STAR Fire Sprinkler Fitting Mastery Examination, or

(2) Current certification by the NICET at level I or above in water-based systems layout, or

(3) Current certification by the NICET at level I or above in inspection and testing of water-based systems.

f. Special hazards system maintenance inspection:

(1) Current certification by the NICET at level I or above in special hazard systems.

(2) Reserved.

g. Preengineered dry chemical or wet agent fire protection system maintenance inspection:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Current certification by the NAFED in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects, or

(4) Current certification by the FPC in commercial kitchen fire suppression system service, preengineered fire suppression maintenance, or both.

h. Preengineered water-based fire protection systems in one- and two-family dwellings installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects.

i. Fire protection system technician trainee: Submission of a completed application no later than the first day of employment. A fire protection system technician trainee may perform work that requires

licensure under this chapter only under the direct supervision of a licensed fire protection system technician or responsible managing employee whose license contains one or more endorsements as provided in subrule 275.1(2) or 276.1(2), and that work must be within the scope of work authorized by the endorsements held by the supervising fire protection system technician or responsible managing employee. At least one licensed fire protection system technician or responsible managing employee must be present for every three apprentice fire protection system installers and maintenance workers or fire protection system technician trainees performing work related to fire protection systems.

276.3(3) Continuing education. A license may be renewed only if the licensee has completed recertification of the applicable certification requirements relative to the endorsement(s) for which the license is being renewed.

276.3(4) Training or testing approval. Satisfactory completion of an applicable training or testing program approved by the department may replace any of the endorsement requirements of subrule 276.3(2). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

276.3(5) License applicability. Work performed by a technician or trainee subject to these rules shall be limited to areas of competence indicated by the specific endorsement(s) identified on the license. Work performed in the state shall not begin prior to:

- a. Receipt of a new or renewed license issued by the department to the applicant, or
- b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

276.3(6) Portable fire extinguisher requirements. Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

276.3(7) Licensure of persons licensed in other jurisdictions. A fire protection system technician license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

276.3(8) Veterans and active duty military. Any individual serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, should apply for licensure following 481—Chapter 7.

[ARC 7874C, IAB 4/17/24, effective 5/22/24]

661—276.4(100D) Application and fees.

276.4(1) Application. Any person seeking licensure as a fire protection system technician shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or from the department's website. The application form shall be submitted with all required attachments and license fee. An application is not complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

276.4(2) License fee.

a. The fee for a permanent or provisional license, except for a trainee license, is \$200. If an application for a license provides for more than one endorsement as provided in subrule 276.1(2), there will be an additional fee of \$25 for each endorsement beyond the first.

b. The fee for a fire protection system technician trainee license is \$100.

c. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

276.4(3) Payment. The license fee shall be submitted electronically, or mailed or hand-delivered by draft, check, or money order in the applicable amount payable to the Iowa Department of Inspections, Appeals, and Licensing. Cash payments are not accepted.

276.4(4) Amended license.

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with a request for an amended license.

b. A licensee will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:

(1) A change in employer. A licensee may only transfer the licensee's technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous employer paid the license fee, the licensee must reapply for a new license under the licensee's new employer and pay the license fee.

(2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change.

c. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

276.4(5) Attachments. Required attachments to the application for a license are outlined on the department's website.

[ARC 7874C, IAB 4/17/24, effective 5/22/24]

661—276.5(100D) Complaints. Complaints regarding the performance of any licensed fire protection system technician, failure of a licensee to meet any of the requirements established in Iowa Code chapter 100D or this chapter or any other provision of law, or persons operating as fire protection system installers and maintenance workers without licensure may be submitted to the department. Complaints should be as specific as possible and clearly identify the licensee or other person against whom the complaint is filed. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

[ARC 7874C, IAB 4/17/24, effective 5/22/24]

661—276.6(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. If a licensee or person who performs work requiring a license violates any provision of these rules or any other provision of law related to work requiring licensure pursuant to this chapter, the department may deny, suspend or revoke a license or assess a civil penalty to a licensee or to a person who performs work requiring licensure pursuant to this chapter and who is not licensed.

276.6(1) Denial. The department may deny an application for licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for licensure. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from licensure equivalent to that provided for in this chapter in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire protection system installer and maintenance worker and if the basis of that action reflects upon the integrity of the applicant in operating as a fire protection system installer and maintenance worker. If an applicant is found to have been previously barred for cause from operating as a fire protection system installer and maintenance worker in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant

would operate with integrity as a licensee. If an applicant is denied licensure under this paragraph, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. “Conviction” as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied licensure under this paragraph, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee’s profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

276.6(2) Suspension. A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100D or for a failure to meet any legal requirement to operate as a fire protection system installer and maintenance worker in this state. Failure to provide any notice to the department as required by these rules may be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions that were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

276.6(3) Revocation.

a. A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire protection system incorrectly installed by a licensee or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license.

b. A new application for a license from an applicant whose license has previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition that was a basis for the revocation has been corrected. The department may specify in the revocation order a period longer than one year before a new application for a license may be considered. When a new application for a license from a person whose license was previously revoked is being considered, the applicant may be denied a license based upon the same information that was the basis for revocation even after any such period established by the department has expired.

276.6(4) Disqualifications for criminal convictions limited. A person’s conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

276.6(5) Civil penalties. The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

276.6(6) Appeals. Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensee or other person under this rule may be appealed within 14 days of receipt of the notice by submitting a written request for a contested case appeal to the department. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

[ARC 7874C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 100D.

[Filed ARC 9032B (Notice ARC 8855B, IAB 6/16/10), IAB 8/25/10, effective 10/1/10]¹

[Editorial change: IAC Supplement 10/6/10]

[Filed ARC 5396C (Notice ARC 5273C, IAB 11/18/20), IAB 1/13/21, effective 2/17/21]

[Filed ARC 7874C (Notice ARC 7335C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

¹ October 1, 2010, effective date of 276.3(1) delayed 70 days by the Administrative Rules Review Committee at its meeting held September 14, 2010.

CHAPTER 277
LICENSING OF ALARM SYSTEM CONTRACTORS AND TECHNICIANS

661—277.1(100C) Establishment of program. The alarm system contractor and alarm system technician license are established pursuant to Iowa Code chapter 100C.

277.1(1) Licensure required. No person shall act as an alarm system contractor without being currently licensed as an alarm system contractor by the department. No person shall act as an alarm system technician without being currently licensed by the department as an alarm system contractor or alarm system technician unless the person is engaged in the installation of alarm system components, is currently licensed pursuant to Iowa Code chapter 103, and is exempt from requirements for licensure by the department as an alarm system technician pursuant to Iowa Code chapter 103.

EXCEPTION: A person may pull cable for an alarm system under the direct supervision of a licensed contractor, licensed technician, or person licensed pursuant to Iowa Code chapter 103 who is working as a technician without licensing pursuant to Iowa Code chapter 103.

277.1(2) Endorsement.

a. The licensure of each contractor, technician, or technician trainee shall carry an endorsement for one or more of the following:

- (1) Alarm system contractor.
 1. Fire alarm system installation.
 2. Nurse call system installation.
 3. Security alarm system installation.
 4. Alarm system maintenance inspection.
 5. Dwelling unit alarm system installation.
- (2) Alarm system technician.
 1. Fire alarm system installation.
 2. Nurse call system installation.
 3. Security alarm system installation.
 4. Alarm system component installation.
 5. Alarm system maintenance inspection.
 6. Dwelling unit alarm system installation.
- (3) Alarm system technician trainee.

b. Any person acting as an alarm system contractor or technician, other than a person who is not required to be licensed for such work by the department, shall do so only in relation to systems covered by the endorsements on the contractor's or technician's license.

277.1(3) Length of licensure. Licensure is normally for three years and will expire on September 30 of the third year after the license has been issued. A license that is effective on a date other than October 1 will be effective on the date on which the license is issued and will expire on the next September 30, after two years have passed from the date on which the license was issued.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.2(100C) Definitions. The following definitions apply:

“Alarm system” means the same as defined in Iowa Code section 100C.1(1).

“Alarm system components” means the portion of an alarm system installation limited to mounting alarm system raceways, boxes or system devices, and pulling of system cable, not including final termination at an alarm panel or final connection of the alarm system or alarm system testing.

“Alarm system contractor” or “contractor” means the same as defined in Iowa Code section 100C.1(2).

“Alarm system technician” or “technician” means a person who is engaged in the layout, installation, repair, alteration, addition, testing, or maintenance of alarm systems and who is licensed under the provisions of this chapter to perform work authorized by that license and any endorsement pertaining thereto. An alarm system technician shall be an employee of an alarm system contractor or, if employed by anyone other than an alarm system contractor, shall perform work requiring licensing

as an alarm system technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

“Alarm system technician trainee” means a person who is engaged in the layout, installation, repair, alteration, addition, or maintenance of alarm systems under the direct supervision of a responsible managing employee or licensed alarm system technician.

“Alarm system maintenance inspection technician” means an employee of an alarm system contractor who is engaged in maintenance inspection of fire alarm, nurse call, or security alarm systems.

“ Dwelling alarm system” means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm, nurse call or security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a single-family dwelling or a single dwelling unit of a multifamily residential building and not interconnected with another dwelling alarm system. A dwelling alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

“Fire alarm system” means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals that serves the general fire alarm needs of a building or buildings and that provides fire department or occupant notification or both. A fire alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

“Installation” means hanging electrical conduits, raceways or boxes; mounting system devices; pulling system cable; activating system-initiating devices and system control units or verifying system operations to meet specifications; and performing system acceptance testing.

“Layout” means drawings, calculations and component specifications to achieve the specified system design installation. “Layout” does not include design.

“Maintenance inspection” means the same as defined in Iowa Code section 100C.1(13).

“Nurse call system” means a nurse call system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a nurse call system or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a facility required to be licensed or certified by the state pursuant to Iowa Code chapter 125, 135B, 135C, 135G, 135H, 135J, 231C, or 231D, or installed in a facility operating pursuant to Iowa Code chapter 218, 219, 223, 225, 233A, or 233B, to initiate response of on-site medical care providers.

“Responsible managing employee” means the same as defined in Iowa Code section 100C.1(14).

“Security alarm system” means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a building or facility to detect unauthorized entry into a building or portion of a building and to notify security personnel or building occupants or both.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.3(100C) Responsible managing employee. Each alarm system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 277.1(2). If more than one responsible managing employee is designated, the contractor will indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

277.3(1) The responsible managing employee or employees shall be designated in the application for licensure; and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the department, in writing, within 30 calendar days.

277.3(2) If a responsible managing employee is no longer acting in the role of responsible managing employee and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee will become the responsible managing employee and the contractor

shall so notify the department, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the department will indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

277.3(3) If a responsible managing employee designated by an alarm system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor will designate a new responsible managing employee and shall notify the department, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity. If the department has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the department shall suspend the license of the alarm system contractor.

277.3(4) A responsible managing employee or an alternate responsible managing employee shall meet one of the requirements for the following endorsements:

- a. Fire alarm system installation:
 - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
 - (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in fire alarm systems, or
 - (3) Current certification by the Electronic Security Association (ESA) at level III in certified fire alarm designer (CFAD).
- b. Nurse call system installation:
 - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
 - (2) Current certification by a nurse call system manufacturer, or
 - (3) Current certification by the NICET at level II or above in fire alarm systems, or
 - (4) Current certification by the ESA at level II in certified alarm technician (CAT).
- c. Security alarm system installation:
 - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
 - (2) Current certification by the NICET at level II or above in fire alarm systems, or
 - (3) Current certification by the ESA at level II in CAT.
- d. Alarm system maintenance inspection:
 - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
 - (2) Current certification by the NICET at level II or above in fire alarm systems, or
 - (3) Current certification by the ESA at level II in CAT, or
 - (4) Current certification by the NICET level II or above in inspection and testing of fire alarm systems.
- e. Dwelling unit alarm system installation:
 - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
 - (2) Current certification by the NICET at level I or above in fire alarm systems, or
 - (3) Current certification by the ESA at level I in CAT.

277.3(5) Training or testing approval. Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 277.3(4). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensing requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year.

Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

277.3(6) License applicability. Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

- a. Receipt of a new or renewed license issued by the department to the applicant, or
- b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

277.3(7) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.4(100C) Contractor licensing.

277.4(1) An alarm system contractor shall meet all of the following requirements in order to receive licensure from the department and will continue to meet all requirements throughout the period of licensure. The contractor shall notify the department, in writing, within 30 calendar days if the contractor fails to meet any requirement for licensure.

a. The contractor designates one or more responsible managing employees as provided in rule 661—277.3(100C).

b. The contractor maintains general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic alarm systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

(1) The carrier of any insurance coverage maintained to meet this requirement shall notify the department 30 days prior to the effective date of cancellation or reduction of the coverage.

(2) The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of an alarm system that cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

c. The contractor maintains its current registration as a contractor in accordance with Iowa Code chapter 91C and any rules promulgated thereunder, and provides a copy of the current registration certificate issued pursuant to Iowa Code chapter 91C to the department with the application.

EXCEPTION: If the contractor does not meet the definition of “contractor” for purposes of Iowa Code chapter 91C, such registration is not required. Written documentation of such exemption must be provided to the department upon application for licensure as an alarm system contractor.

d. The contractor maintains compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

277.4(2) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsement for which the licensee is renewing.

277.4(3) An alarm system contractor license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.5(100C) Contractor application and fees.

277.5(1) *Application.* Any contractor seeking licensure as an alarm system contractor shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application

form may be obtained from the department or the department's website. The application form shall be submitted with all required attachments and the required application fee. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

277.5(2) *Licensure fee.* The license fee for alarm system contractors will be \$300 for two years. If an application for licensure provides for more than one responsible managing employee pursuant to rule 661—277.3(100C), there will be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for licensure provides for more than one endorsement as provided in subrule 277.1(2), there will be an additional fee of \$50 for each endorsement beyond the first. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

277.5(3) *Payment.* The license fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

277.5(4) *Amended license.*

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended licensure.

b. A contractor will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:

- (1) A change in the designation of a responsible managing employee;
- (2) A change in insurance coverage; or
- (3) A change in any other material information included in or with the initial or renewal application.

A change in the location of a business is a material change; however, no fee will be charged for the issuance of an amended license if the sole reason for amending the license is to reflect a change in location that was necessitated by disaster emergency conditions and the business was located in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

c. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

277.5(5) *Attachments.* Required attachments to the application for licensure are outlined on the department's website.

277.5(6) *National criminal history check.* Each applicant for licensure as a contractor shall submit fingerprints and the applicable fee for a national criminal history check conducted by the Federal Bureau of Investigation at the time of application for a new or renewal license.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.6(100C) Technician licensure requirements. An applicant for alarm system technician licensure shall meet all of the following requirements that are applicable to the endorsements for which the applicant is applying in order to receive licensure from the department, and continue to meet all such requirements throughout the period of licensure. The technician will notify the department, in writing, within 30 calendar days if the technician fails to meet any applicable requirement for licensure.

277.6(1) The alarm system technician shall meet one of the following criteria for the following endorsements:

a. Fire alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in fire alarm systems, or
- (3) Current certification by the Electronic Security Association (ESA) at level II in certified alarm technician (CAT), or

(4) Current certification by the Elite Continuing Education University (CEU) in fire alarm installation techniques (FAIT).

b. Nurse call system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by a nurse call system manufacturer, or

(3) Current certification by the NICET at level I or above in fire alarm systems, or

(4) Current certification by the ESA at level I in CAT, or

(5) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

c. Security alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the NICET at level I or above in fire alarm systems, or

(3) Current certification by the ESA at level I in CAT, or

(4) Current certification by the CEU in advanced electronic intrusion technician (AEIT), or

(5) Current certification by the Complete Electrical Academy at level I in Electronic Security Technician.

d. Alarm system component installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the NICET at level I or above in fire alarm systems, or

(3) Current certification by the ESA at level I in CAT, or

(4) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

e. Alarm system maintenance inspection:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the NICET at level I or above in fire alarm systems, or

(3) Current certification by the ESA at level I in CAT, or

(4) Current certification by the NICET at level I or above in inspection and testing of fire alarm systems, or

(5) Current certification by the Complete Electrical Academy at level I in electronic security technician.

f. Dwelling unit alarm system installation:

(1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or

(2) Current certification by the NICET at level I or above in fire alarm systems, or

(3) Current certification by the ESA at level I in CAT, or

(4) Current certification by the CEU in alarm level I, or

(5) Current certification by the Complete Electrical Academy at level I in electronic security technician.

g. Alarm system technician trainee: Submission of a completed application no later than the first day of employment. An alarm system technician trainee may perform work that requires licensure under this chapter only under the direct supervision of a licensed alarm system technician or responsible managing employee whose license contains one or more endorsements as provided in rules 661—277.3(100C) and 661—277.6(100C), respectively, and that work must be within the scope of work authorized by the endorsements held by the supervising alarm system technician or responsible managing employee.

277.6(2) The technician shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the technician is performing work.

277.6(3) Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 277.6(1). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

277.6(4) Work performed by a technician or trainee subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the technician and will be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee of the technician's employer, unless the employer is not a licensed contractor as allowed by Iowa Code chapter 100C. Work performed in the state shall not begin prior to one of the following:

- a. Receipt of a new or renewed license issued by the department to the applicant, or
- b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

277.6(5) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

277.6(6) A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

277.6(7) An alarm system technician license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.7(100C) Technician application and fees.

277.7(1) Application. Any technician seeking licensure as an alarm system technician shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date on which work begins in the state or on which an existing license expires, except that an application for endorsement as an alarm system technician trainee may be submitted no later than the first day of employment as an alarm system technician trainee. An application form may be obtained from the department or from the department's website. The application form shall be submitted with all required attachments and the application fee established in this rule. An application will not be considered complete unless all necessary information is submitted, including attachments and fees, and will not be processed until it is complete.

277.7(2) Licensure fee.

a. The license fee for an alarm system technician will be \$150 for two years, except that the license fee for endorsement as an alarm system technician trainee will be \$50 for one year. There will be an additional fee of \$25 for each endorsement beyond the first.

b. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

277.7(3) Payment. The certification fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

277.7(4) Amended license.

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with the request for an amended license.

b. A technician will request and the department will issue an amended license for a change in any material information included in or with the initial or renewal application. A licensee will request and the department will issue an amended license for any of the following reasons and a fee does not apply:

(1) A change in employer. A licensee may only transfer the licensee's technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous employer paid the license fee, the licensee must reapply for a new license under the new employer and pay the license fee.

(2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change.

c. Other changes in the information required in the application form shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

277.7(5) Attachments. Required attachments to the application for license are outlined on the department's website.

277.7(6) National criminal history check. Each applicant for licensure as a technician shall submit fingerprints and the applicable fee for a national criminal history check conducted by the Federal Bureau of Investigation at the time of application for a new or renewal license.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.8(100C) Complaints. Complaints regarding the performance of any licensed contractor or technician, failure of a licensed contractor or technician to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as an alarm system contractor or technician without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor or technician against whom the complaint is filed. Complaints should be submitted in writing to the department. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

661—277.9(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals. The department may deny, suspend, or revoke the license of a contractor or technician or may assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as an alarm system contractor or technician is violated.

277.9(1) Denial. The department may deny an application for licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for licensure. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as an alarm system contractor or technician in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as an alarm system contractor or technician and if the basis of that action reflects upon the integrity of the applicant in operating as an alarm system contractor or technician. If an applicant is found to have been previously barred for cause from operating as an alarm system contractor or technician in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensed contractor or technician. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. "Conviction" as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final

order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.

277.9(2) Suspension. A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as an alarm system contractor or technician in this state. Failure to provide any notice to the department as provided in these rules will be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions that were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

277.9(3) Revocation. A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation that creates an imminent danger to the safety or health of individuals protected by an alarm system incorrectly installed by a certified contractor or technician or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license. A new application for licensure from a contractor or technician whose license had previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition that was a basis for the revocation has been corrected. The department may specify in the revocation order a longer period than one year before a new application for licensure may be considered. When a new application for licensure from a contractor or technician whose license was previously revoked is being considered, the applicant may be denied licensure based upon the same information that was the basis for revocation even after any such period established by the department has expired.

277.9(4) Disqualifications for criminal convictions limited. A person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

277.9(5) Civil penalties. The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

277.9(6) Appeals. Any person subject to denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensed contractor or technician under this rule, may appeal by requesting a contested case hearing, in writing, within 14 days. An appeal of a civil penalty is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

[ARC 7875C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 100C.

[Filed 8/7/08, Notice 3/26/08—published 8/27/08, effective 10/1/08]

[Filed ARC 5396C (Notice ARC 5273C, IAB 11/18/20), IAB 1/13/21, effective 2/17/21]

[Filed ARC 7875C (Notice ARC 7333C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 278
MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE
MEMBERS FOR FIRE EXTINGUISHING AND ALARM SYSTEMS CONTRACTORS AND
INSTALLERS

Rescinded **ARC 7876C**, IAB 4/17/24, effective 5/22/24

CHAPTERS 279 to 290
Reserved

CHAPTER 500
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
ORGANIZATION AND ADMINISTRATION

661—500.1(103) Establishment of program. The electrician and electrical contractor licensing program is established in the department of inspections, appeals, and licensing. The program is under the direction of the electrical examining board. Contact information of the board office can be found on the department's website.

[ARC 7877C, IAB 4/17/24, effective 5/22/24]

661—500.2(103) Definitions. The following definitions apply to all rules adopted by the electrical examining board.

"Approved by the board" means the approval of any item, test or procedure by the electrical examining board by adoption of a resolution at a meeting of the board, provided that the approval has not been withdrawn by a later resolution of the board. A list of any such items, tests, or procedures that have been approved by the board is available from the board office or from the board website.

"Complete criminal record" means the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Department" means the department of inspections, appeals, and licensing.

"Directly relates" or *"directly related"* means either that the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession; or that the circumstances under which an offense was committed are customary to the profession.

"Disqualifying conviction" or *"disqualifying offense"* means a conviction directly related to the practice of the profession.

"Division" means the building and construction bureau of the department of inspections, appeals, and licensing.

"Documented experience" means experience which an applicant for licensing has completed and which has been documented by the applicant's completion and submission of a sworn affidavit or other evidence requested by the board.

"Eligibility determination" means the process by which a person who has not yet submitted a completed license application may request that the board determine whether one or more of the person's convictions are disqualifying offenses that would prevent the individual from receiving a license or certification.

"Emergency installation" means an electrical installation necessary to restore power to a building or facility when existing equipment has been damaged due to a natural or man-made disaster or other weather-related cause. Emergency installations may be performed by persons properly licensed to perform the work, and may be performed prior to submission of a request for permit or request for inspection. A request for permit and request for inspection, if required by rule 661—552.1(103), should be made as soon as practicable and, in any event, no more than 72 hours after the installation is completed.

"Final agency action" means the issuance, denial, suspension, or revocation of a license. If an action is subject to appeal, "final agency action" has occurred when the administrative appeal process provided for in 661—Chapter 503 has been exhausted or when the deadline for filing an appeal has expired.

"Full-time" means a minimum of 1,700 hours of work in a one-year period.

"Issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

"Registered apprenticeship program" means an electrical apprenticeship program registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or an electrical

apprenticeship program registered with a state agency whose registration program is accepted by the Bureau of Apprenticeship and Training in lieu of direct registration with the Bureau of Apprenticeship and Training.

“*Residential electrical work*” means electrical work in a residence in which there are no more than four living units within the same building and includes work to connect and work within accessory structures, which are structures no greater than 3,000 square feet in floor area, not more than two stories in height, the use of which is incidental to the use of the dwelling unit or units, and located on the same lot as the dwelling unit or units.

“*Transferring jurisdiction*” means the specific issuing jurisdiction on which an applicant relies to seek licensure in Iowa by verification under this chapter.

[ARC 7877C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A, 103 and 272C.

[Filed emergency 12/17/07—published 1/16/08, effective 1/1/08]

[Editorial change: IAC Supplement 6/17/09]

[Filed ARC 8396B (Notice ARC 8160B, IAB 9/23/09), IAB 12/16/09, effective 2/1/10]

[Filed ARC 9234B (Notice ARC 9099B, IAB 9/22/10), IAB 11/17/10, effective 1/1/11]

[Filed ARC 9626B (Notice ARC 9515B, IAB 5/18/11), IAB 7/27/11, effective 9/1/11]

[Editorial change: IAC Supplement 9/7/11]

[Filed ARC 9811B (Notice ARC 9652B, IAB 8/10/11), IAB 10/19/11, effective 12/1/11]

[Filed ARC 5723C (Notice ARC 5587C, IAB 4/21/21), IAB 6/30/21, effective 8/4/21]

[Filed ARC 7877C (Notice ARC 7281C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 501
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
ADMINISTRATIVE PROCEDURES
Rescinded **ARC 7878C**, IAB 4/17/24, effective 5/22/24

CHAPTER 502
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—LICENSING
REQUIREMENTS, PROCEDURES, AND FEES

661—502.1(103) License categories and authority.

502.1(1) The following license categories are established:

- a. Electrical contractor.
- b. Residential electrical contractor.
- c. Master electrician, class A.
- d. Master electrician, class B.
- e. Residential master electrician.
- f. Journeyman electrician, class A.
- g. Journeyman electrician, class B.
- h. Residential electrician.
- i. Apprentice electrician.
- j. Special electrician.
- k. Unclassified person.
- l. Inactive master electrician.

502.1(2) A person who holds any class of license issued by the board, other than a class B license, a residential electrical contractor license, a residential master electrician license, or a residential electrician license, may perform the work authorized by that license anywhere within the state of Iowa. A class B license can be subject to limitations imposed by a political subdivision through a local ordinance pursuant to Iowa Code section 103.29(4). A person who holds a residential electrical contractor license, a residential master electrician license, or a residential electrician license may perform the work authorized by that license anywhere within the state of Iowa except within a political subdivision which has, by local ordinance, limited the use of such a license.

502.1(3) Except as otherwise provided by Iowa Code chapter 103, a person who does not have a current valid license cannot perform work as an electrician or as an unclassified person. A person cannot perform work which requires licensing and which is not specifically authorized under the license issued.

502.1(4) An apprentice electrician or an unclassified person, while performing electrical work, shall be directly supervised at all times by a master electrician or a journeyman electrician or, while performing residential electrical work only, by a residential master electrician, a residential electrician, or a special residential electrician. A master electrician, a journeyman electrician, a residential master electrician, or a residential electrician is not permitted to directly supervise more than three apprentice electricians or unclassified persons, or both, at once.

502.1(5) A journeyman electrician or a residential electrician may only work under the general direction of a master electrician or, while performing residential electrical work only, under the general direction of a residential master electrician.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.2(103) License requirements.

502.2(1) An electrical contractor license may be issued to a person who submits an application with the applicable fee, who holds or employs a person who holds an active master electrician license, who is registered as a contractor with the labor services division of Iowa workforce development. An electrical contractor license issued to a person who holds a class B master electrician license is subject to the same restriction of use as is the class B master electrician license.

502.2(2) A residential electrical contractor license may be issued to a person who is licensed as a class A master electrician, a class B master electrician, or a residential master electrician and who is registered with the state of Iowa as a contractor pursuant to Iowa Code chapter 91C.

502.2(3) A class A master electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets one of the following:

a. Has completed one year of experience as a licensed journeyman electrician, and has passed a supervised written examination for master electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application; or

b. As of December 31, 2007, held a current valid license as a master electrician issued by a political subdivision in Iowa, the issuance of which required passing a supervised written examination approved by the board, and one year of experience as a journeyman electrician; or

c. Holds a current class B master electrician license and has passed a supervised written examination for master electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application.

502.2(4) A class B master electrician license may be issued to a person who submits to the board a completed application with the applicable fee; who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a master electrician, of which at least 8,000 hours were worked since January 1, 1998; and whose experience as a master electrician began on or before January 1, 1998.

502.2(5) A residential master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, holds a current residential electrician or journeyman electrician license, has 2,000 hours of verified experience as a residential electrician or a journeyman electrician, and has passed a residential master electrician examination approved by the board with a score of 70 or higher within 24 months of submission of a new application.

502.2(6) A class A journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets one of the following:

a. Has successfully completed a registered apprenticeship program, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has completed four years of experience as an apprentice electrician.

b. Holds a current class B journeyman electrician license and has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application.

c. Holds a current electrician license in another state, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has satisfied the sponsorship requirements for testing for a journeyman class A license by providing evidence of all of the following:

(1) Current licensure as a journeyman or master electrician from another state which required passing a test sponsored by that state.

(2) Completion of 18 hours of continuing education units approved by the board.

(3) Completion of 1,000 hours of work in Iowa as an unclassified person.

d. Holds a current license issued by the board; has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application; has completed 54 hours of continuing education approved by the board; and has completed 16,000 hours of electrical work while licensed by the board, except as a special electrician, as verified by a master electrician licensed by the board. The 16,000 hours is to include at least the following minimum number of hours of work on commercial or industrial installations in the categories indicated: 500 hours of preliminary work, 2,000 hours of rough-in work, 2,000 hours of finish work, 2,000 hours of lighting and service work, 500 hours of troubleshooting, and 500 hours of motor control work. At least 4,000 hours of the 16,000 hours is to be completed by the applicant within the five years immediately preceding the submission date of the application.

e. Holds a current license issued by the board as a residential electrician or residential master electrician, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has completed 4,000 hours of work on commercial or industrial electrical installations while licensed by the board, as verified by a master electrician licensed by the board. The 4,000 hours is to include at least the following minimum numbers of hours in the categories indicated: 100 hours of preliminary

work, 500 hours of rough-in work, 500 hours of finish work, 500 hours of lighting and service work, 100 hours of troubleshooting, and 100 hours of motor control work.

f. Holds a current license issued by the board, has satisfactorily completed an approved postsecondary electrical education program, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and, subsequent to beginning the postsecondary electrical education program, has completed at least 6,000 hours of electrical work while licensed by the board, as verified by a master electrician licensed by the board.

502.2(7) A class B journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee; who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a journeyman electrician or master electrician, of which at least 8,000 hours were worked since January 1, 1998; and whose experience as a journeyman electrician or master electrician began on or before January 1, 1998.

502.2(8) A residential electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets one of the following:

a. Has completed 6,000 hours of experience as an apprentice electrician and has passed a residential electrician examination approved by the board. An applicant may take the examination after completing 5,000 hours of experience as an apprentice electrician, although the license will not be issued until the applicant has completed 6,000 hours of such experience; or

b. Has completed 4,000 hours of experience working under the direct supervision of a residential master electrician, a residential electrician, a master electrician, or a journeyman electrician; has successfully completed a minimum of one academic year of an electrical trade school approved by the board; and has passed a residential electrician examination approved by the board; or

c. Has completed 8,000 hours of verified experience as a licensed unclassified person including at least 2,000 hours of verified work experience in residential wiring and has passed a residential electrician examination approved by the board; or

d. Has successfully completed a registered residential electrician apprenticeship program and passed a supervised written residential electrician examination approved by the board with a score of 70 or higher within 24 months of submission of a new application.

502.2(9) A special electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets the qualifications for any endorsement entered on the license. Each special electrician license is eligible to carry one or more of the following endorsements:

a. Endorsement 1, "Irrigation System Wiring," may be included if requested and the applicant has passed a supervised examination approved by the board or has completed two years, or 4,000 hours, of documented experience in the wiring of irrigation systems.

b. Endorsement 2, "Disconnecting and Reconnecting Existing Air Conditioning and Refrigeration Systems," may be included if requested and the applicant has passed a supervised examination approved by the board or has completed two years of documented experience in the disconnecting and reconnecting of existing air conditioning and refrigeration systems.

c. Endorsement 3, "Sign Installation," may be included if requested. This endorsement does not authorize the holder to connect power to a sign that has a voltage greater than 220V and an ampere rating greater than 20 amps. Initial installation or upgrading of the branch circuits supplying power to the sign may only be completed by a licensed master electrician or by a licensed journeyman electrician under the supervision of a master electrician.

502.2(10) An apprentice electrician license may be issued to a person who submits a completed application to the board with the applicable fee and who is participating in a registered apprenticeship program. A person may hold an apprentice electrician license for no more than six years from the original date of licensing unless an extension is granted by the board based upon a documented hardship.

502.2(11) A license as an unclassified person may be issued to a person who submits a completed application to the board with the applicable fee and who is employed by a licensed electrical contractor. Any person who holds a current license issued by the board, excluding special electrician licenses, may work as an unclassified person without holding an unclassified person license.

502.2(12) In lieu of renewal of the active master electrician license, an inactive master electrician license may be issued to a holder of a master electrician license whose license is due for renewal and who requests placement in inactive status. It is the responsibility of the holder of an inactive license to maintain all requirements which would apply for an active master electrician license, except for payment of the fee for an active license, during the term of the inactive license. If the license holder fails to meet any such requirement during the term of the inactive license, the license holder will not be entitled to reinstatement of an active license. If the license holder continues to meet all such requirements while holding an inactive license, the license holder may obtain an active master electrician license by surrendering the inactive master electrician license, filing an application for reinstatement, and paying the applicable license fee. The holder of an inactive license who seeks reinstatement of an active license will not receive any refund of the fee paid for the inactive license. A person who holds an inactive license cannot perform work which requires the person to be a holder of that license but may perform work authorized by any active license issued by the board which the person holds.

502.2(13) Retaking an examination. If passage of an examination is a requirement for issuance of a license:

a. An applicant who has taken the examination for a license twice and has failed the examination twice cannot retake the examination until after waiting six months and completing 12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of four times.

b. An applicant who has satisfied the conditions of paragraph “*a*” and who has taken the examination two additional times, or a total of four times, and has failed the examination four times cannot retake the examination until after waiting an additional six months and completing an additional 12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of six times.

c. An applicant who has satisfied the conditions of paragraph “*b*” and who has taken the examination two additional times, or a total of six times, and has failed the examination six times cannot retake the examination any additional times unless approved to do so by the board. An applicant who wishes to take an examination after failing it six times may petition the board to allow the applicant to take the examination again after waiting an additional six months. The board may request that an applicant appear personally before the board when considering the petition.

502.2(14) Reciprocal journeyman licensing. A journeyman class A license may be issued, without examination, to a person who holds a license from another state provided that:

a. The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued; and

b. The applicant has successfully completed a supervised written examination approved by the other state with a score of 70 or higher in order to obtain the license from the other state; and

c. The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

d. The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

(4) The sworn affidavit required under subparagraph 502.2(14)“*e*”(2), if applicable; and

(5) Any other information requested by the board; and

e. The applicant has either:

(1) Completed an approved apprenticeship program; or

(2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, as documented by submission of a sworn affidavit signed by the applicant.

502.2(15) Reciprocal master licensing. A master class A license may be issued, without examination, to a person who holds an equivalent license from another state provided that:

a. The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and that the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued; and

b. The applicant has successfully completed a supervised written examination approved by the other state, with a score of 70 or higher, in order to obtain the license from the other state; and

c. The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

d. The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

(4) Any other information requested by the board, which may include, but is not limited to, additional evidence that the person's license from the other state is currently valid; and

e. The applicant has either:

(1) Completed an approved apprenticeship program; or

(2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, documented by a sworn affidavit signed by the applicant.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.3(103) License terms and fees. The following table sets out the length of term of each license and the fee for the license.

License Type	Term	Fee
Electrical Contractor	3 years	\$375
Residential Electrical Contractor	3 years	\$375
Master Electrician, Class A	3 years	\$375
Master Electrician, Class B	3 years	\$375
Residential Master Electrician	3 years	\$375
Journeyman Electrician, Class A	3 years	\$75
Journeyman Electrician, Class B	3 years	\$75
Residential Electrician	3 years	\$75
Special Electrician	3 years	\$75
Apprentice Electrician	1 year	\$20
Unclassified Person	1 year	\$20
Inactive Master Electrician	3 years	\$75

502.3(1) If a license is issued for less than the period of time specified in the table above, the fee will be prorated according to the number of months for which the license is issued.

502.3(2) A licensee who is on active military deployment for 91 or more consecutive calendar days during the term of a license may have the license period tolled as follows. "Tolled" means that the expiration date of the license will be delayed for that period of time.

a. A licensee who is on active military deployment for 91 or more consecutive calendar days during a licensing period may have the license terms tolled for one year.

b. A licensee who is on active military deployment for 366 or more consecutive calendar days during a licensing period may have the license terms tolled for two years.

c. A licensee who is on active military deployment for 91 or more consecutive calendar days but fewer than 366 consecutive calendar days may petition the board to have the license tolled for two years upon a showing of a special hardship which would not be alleviated by tolling the license term for only one year.

d. A licensee who requests that the term of a license be tolled pursuant to this subrule will provide a copy of military orders showing the beginning and ending dates of the deployment or deployments which are the basis for the request.

502.3(3) A licensee may obtain a replacement license for a license that has been lost. To order a replacement license, the licensee will notify the board office in writing that the license has been lost and will provide any information needed by the board office, which may include, but is not limited to, the license number, the name of the licensee, and a description of the circumstances of the loss, if known. The fee for issuance of a replacement license is \$15.

EXCEPTION: If a licensee who is located in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 which is currently in force or has been in force within the previous 90 days certifies to the board that the license was lost as a direct result of conditions which relate to the issuance of the disaster emergency proclamation, the fee for replacement of the license can be waived.

502.3(4) Refunds of license fees can be made under the following circumstances:

a. If an error on the part of the staff or the applicant or licensee has resulted in an overpayment of fees, the refund can be in the amount of overpayment and can be made if the overpayment is discovered by staff of the board or if the overpayment is discovered by the applicant or licensee and the applicant or licensee requests a refund.

b. If an applicant for an initial license or a renewal license dies prior to the effective date of a license for which the applicant has applied and paid the applicable fee, the license fee can be refunded to the estate of the applicant upon receipt of a request from the estate of the applicant, accompanied by a certified copy of the death certificate.

502.3(5) The fee for submitting a petition for eligibility determination as defined in subrule 502.8(2) is \$25.

502.3(6) The board will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.4(103) Disqualifications for licensure. An application for a license can be denied if any of the following apply:

502.4(1) The applicant fails to meet the requirements for the license for which the applicant has applied or the applicant fails to provide adequate documentation of any requirement.

502.4(2) The applicant has previously had a license revoked or suspended by the board, and the circumstances which formed the basis of the revocation or suspension have not been corrected. If a license was revoked or suspended and conditions were imposed for the restoration of the license, licensure will be denied unless those conditions have been met.

502.4(3) The applicant has been denied, for cause, a license to work, or a license as an electrician has been revoked, for cause, in any other state or political subdivision and the applicant has not subsequently received a license from the state or political subdivision which denied or revoked the license. An applicant who has been denied a license pursuant to this provision may apply to the board for a license and, upon a showing of evidence satisfactory to the board that the condition or conditions which led to the denial or revocation no longer apply, the board may grant the license to the applicant.

502.4(4) The applicant falsifies or fails to provide any information requested in connection with the application or falsifies any other information provided to the board in support of the application.

502.4(5) The applicant has been convicted of a disqualifying offense in the courts of this state or another state, territory, or country. A file-stamped copy of the final order or judgment of conviction or plea of guilty in this state or another state constitutes conclusive evidence of the conviction.

502.4(6) The applicant has unpaid fees due to the board which are 120 days or more past due. The license for which the applicant applied may be issued after the fees are paid if the applicant is not otherwise disqualified from obtaining the license.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.5(103) License application.

502.5(1) Any person seeking a license from the board is to submit a completed application to the board accompanied by the applicable fee payable by check, money order, or warrant to the Iowa Department of Inspections, Appeals, and Licensing. The memo area of the check should read “Electrician Licensing Fees.” The application is to be submitted on the form prescribed by the board, which may be obtained from the board office.

502.5(2) Upon receipt of a completed application, the board executive secretary or designee has discretion to:

- a. Authorize the issuance of a license, certification, or examination application.
- b. Refer the application to a committee of the board for review and consideration when the board executive secretary determines that matters raised in or revealed by the application, including but not limited to prior criminal history, chemical dependence, competency, physical or psychological illness, professional liability claims or settlements, professional disciplinary history, education or experience, are relevant in determining the applicant’s qualifications for a license, certification, or examination. Matters that may justify referral to a committee of the board include, but are not limited to:

(1) Prior criminal history, which is reviewed and considered in accordance with Iowa Code chapter 272C and rule 661—502.8(272C).

(2) Chemical dependence.

(3) Competency.

(4) Physical or psychological illness or disability.

(5) Judgments entered on, or settlements of, claims, lawsuits, or other legal actions related to the profession.

(6) Professional disciplinary history.

(7) Education or experience.

502.5(3) Following review and consideration of an application referred by the board executive secretary, the committee may at its discretion:

a. Authorize the issuance of the license, certification, or examination application.

b. Recommend to the board denial of the license, certification, or examination application.

c. Recommend to the board issuance of the license or certification under certain terms and conditions or with certain limitations.

d. Refer the license, certification, or examination application to the board for review and consideration without recommendation.

502.5(4) Following review and consideration of a license, certification, or examination application referred by the committee, the board can:

a. Authorize the issuance of the license, certification, or examination application;

b. Deny the issuance of the license, certification, or examination application; or

c. Authorize the issuance of the license or certification under certain terms and conditions or with certain limitations.

502.5(5) The committee or board can request an applicant to appear for an interview before the committee or the full board as part of the application process.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.6(103) Restriction of use of class B licenses by political subdivisions. A political subdivision may disallow or limit the use of a class B license to perform electrical work within the geographic limits of that subdivision through adoption of a local ordinance. A copy of any such ordinance is to be filed with the board office prior to the effective date of the ordinance. If a class B license holder held a license issued or recognized by a political subdivision on December 31, 2007, that

political subdivision cannot restrict the license holder from performing work which would have been permitted under the terms of the license issued or recognized by the political subdivision.

EXCEPTION: An ordinance restricting or disallowing electrical work by holders of class B licenses will not apply to work which is not subject to the issuance of permits by the political subdivision.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.7(103) Financial responsibility. Any holder of an electrical contractor license or any holder of an electrician license who is not employed by a licensed electrical contractor and who contracts to provide electrical work which requires a license issued pursuant to 661—Chapters 500 through 503 is to, at all times, maintain insurance coverage as provided in this rule.

502.7(1) The licensee is to maintain general and complete operations liability insurance in the amount of at least \$1 million for all work performed which requires licensing pursuant to 661—Chapters 500 through 503.

a. The carrier of any insurance coverage maintained by the licensee to meet this requirement will notify the board 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The licensee will cease operation immediately if the insurance coverage required by this rule is no longer in force and other insurance coverage meeting the requirements of this rule is not in force. A licensee will not initiate any electrical work which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this rule and of which the licensee has received notice, unless new insurance coverage meeting the requirements of this rule has been obtained and will be in force upon cancellation of the prior coverage.

502.7(2) Reserved.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.

502.8(1) License application. Unless an applicant for licensure petitions the board for an eligibility determination, the applicant's convictions will be reviewed when the board receives a completed license application.

a. Full disclosure. An applicant is to disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. Documentation and personal statement. An applicant with one or more convictions is to submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

c. Rehabilitation. An applicant will, as part of the license application, submit all evidence of rehabilitation that the applicant wishes to be considered by the board. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15. An applicant with one or more disqualifying offenses who has been found rehabilitated still needs to satisfy all other requirements for licensure.

d. Nonrefundable fees. Any application fees will not be refunded if the license is denied.

502.8(2) Eligibility determination. An individual who has not yet submitted a completed license application may petition the board for an eligibility determination. An individual with criminal convictions is not required to petition the board for an eligibility determination before applying for a license. To petition the board for an eligibility determination, a petitioner is to submit all of the following:

- a.* A completed eligibility determination form, which is available on the board's website;
- b.* The complete criminal record for each of the petitioner's convictions;
- c.* A personal statement regarding whether each conviction directly relates to the practice of the profession and why the board should find the petitioner rehabilitated;
- d.* All evidence of rehabilitation that the petitioner wants the board to consider; and
- e.* Payment of a nonrefundable fee in the amount of \$25.

502.8(3) Appeal. A petitioner found ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The department's rules governing contested case proceedings apply unless otherwise specified in this rule. If the petitioner or applicant fails to file a timely appeal, the board's written decision will become a final order.

a. Presiding officer. The presiding officer will be the board. However, any party to an appeal of a license denial or ineligibility determination may file a written request, in accordance with rule 661—10.306(17A), requesting that the presiding officer be an administrative law judge. Additionally, the board may, on its own motion, request that an administrative law judge be assigned to act as presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered will be a proposed decision.

b. Burden. The office of the attorney general represents the board's initial ineligibility determination or license denial and has the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. If the office of the attorney general satisfies this burden by a preponderance of the evidence, the burden of proof shifts to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

c. Judicial review. A petitioner or applicant must appeal an ineligibility determination or a license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding is to be made in accordance with Iowa Code chapter 17A.

502.8(4) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner cannot submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant cannot submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.9(272C) Licensure by verification. Licensure by verification is available under the following circumstances.

502.9(1) Eligibility. A person may seek licensure by verification if all of the following criteria are satisfied:

- a.* The person is licensed, certified, or registered in at least one other issuing jurisdiction;
- b.* The person has been licensed, certified, or registered by another issuing jurisdiction for at least one year;
- c.* The scope of practice in the transferring jurisdiction is substantially similar to the scope of practice in Iowa;
- d.* The person's license, certification, or registration is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration; and
- e.* The person either:
 - (1) Establishes residency in the state of Iowa pursuant to rule 701—38.17(422); or
 - (2) Is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station.

502.9(2) Board application. The applicant is to submit all of the following:

- a.* A completed application for licensure by verification.
- b.* Payment of the appropriate fee or fees.
- c.* A verification form completed by the transferring jurisdiction, verifying that the applicant's license, certificate, or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form will be sent directly from the transferring jurisdiction to the board.

d. Proof of current Iowa residency, or proof of the military member's official permanent change of station. To demonstrate Iowa residency, the applicant will submit proof that:

(1) The applicant currently maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the calendar year; and

(2) One or more of the following:

1. The applicant claims a homestead credit or military tax exemption on a home in Iowa, or

2. The applicant is registered to vote in Iowa, or

3. The applicant maintains an Iowa driver's license, or

4. The applicant does not reside in an abode in any other state for more days of the calendar year than the individual resides in Iowa.

e. Documentation of the applicant's complete criminal record, including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession.

f. A copy of any relevant disciplinary documents, if another issuing jurisdiction has taken disciplinary action against the applicant.

502.9(3) Applicants with prior discipline. If another issuing jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person whose license was revoked, or a person who voluntarily surrendered a license, in another issuing jurisdiction is ineligible for licensure by verification.

502.9(4) Applicants with pending licensing complaints or investigations. If an Iowa applicant is concurrently subject to a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another issuing jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements.

502.10(1) Work experience.

a. An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a license to practice the profession may be considered to have met the applicable educational and training requirements if the person has at least three years of full-time work experience within the four years preceding the date of application for initial licensure. For each application submitted under this rule, the board will determine whether the applicant's prior work experience was substantially similar in nature and scope to a training or education program typically applicable for the license sought.

b. The applicant will need to satisfy all other license requirements, including passing any required examinations, to receive a license.

502.10(2) Documentation. An applicant seeking to substitute work experience in lieu of satisfying applicable education or training requirements bears the burden of providing all of the following by submitting relevant documents as part of a completed license application:

a. Proof of current residency in the state of Iowa pursuant to rule 701—38.17(17A), or proof of the military member's official permanent change of station. To demonstrate Iowa residency, the applicant is to submit proof that:

(1) The applicant currently maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the calendar year; and

(2) One or more of the following:

1. The applicant claims a homestead credit or military tax exemption on a home in Iowa, or

2. The applicant is registered to vote in Iowa, or

3. The applicant maintains an Iowa driver's license, or

4. The applicant does not reside in an abode in any other state for more days of the calendar year than the individual resides in Iowa.

b. Proof of three or more years of full-time work experience within the four years preceding the application for Iowa licensure, which demonstrates that the work experience was substantially similar

in nature and scope to a training or education program typically applicable for the license sought. Proof of work experience may include, but is not limited to:

(1) A letter from the applicant's prior employer or employers documenting the applicant's dates of employment and scope of practice;

(2) Paychecks or pay stubs; or

(3) If the applicant was self-employed, business documents filed with the secretary of state or other applicable business registry or regulatory agency in the other jurisdiction.

c. Proof that the applicant's work experience involved a substantially similar scope of practice to the practice in Iowa, which is to include:

(1) A written statement by the applicant detailing the scope of practice and stating how the work experience correlates to an applicable apprenticeship program approved by the United States Department of Labor; and

(2) Business or marketing materials detailing the services provided.

d. Proof that the other jurisdiction did not require a license to practice the profession, which may include:

(1) Copies of applicable laws;

(2) Materials from a website operated by a governmental entity in that jurisdiction; or

(3) Materials from a nationally recognized professional association applicable to the profession.

[ARC 7879C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 103 and 272C.

[Filed emergency 12/17/07—published 1/16/08, effective 1/1/08]

[Filed ARC 8396B (Notice ARC 8160B, IAB 9/23/09), IAB 12/16/09, effective 2/1/10]

[Filed ARC 9234B (Notice ARC 9099B, IAB 9/22/10), IAB 11/17/10, effective 1/1/11]

[Filed ARC 9626B (Notice ARC 9515B, IAB 5/18/11), IAB 7/27/11, effective 9/1/11]

[Filed ARC 9811B (Notice ARC 9652B, IAB 8/10/11), IAB 10/19/11, effective 12/1/11]

[Filed ARC 0120C (Notice ARC 0038C, IAB 3/7/12), IAB 5/16/12, effective 7/1/12]

[Filed ARC 2245C (Notice ARC 2057C, IAB 7/8/15), IAB 11/25/15, effective 12/30/15]

[Filed Emergency After Notice ARC 3733C (Notice ARC 3580C, IAB 1/17/18), IAB 4/11/18, effective 3/26/18]

[Filed Emergency After Notice ARC 3902C (Notice ARC 3656C, IAB 2/28/18), IAB 7/18/18, effective 6/25/18]

[Filed ARC 5723C (Notice ARC 5587C, IAB 4/21/21), IAB 6/30/21, effective 8/4/21]

[Filed ARC 7879C (Notice ARC 7276C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 503
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
COMPLAINTS AND DISCIPLINE

661—503.1(103) Complaints. Any person may file a complaint regarding work performed by any licensee or licensee applicant, or by an unlicensed person who should possess a license issued by the board. Complaints can be filed either in writing or electronically.

[ARC 7880C, IAB 4/17/24, effective 5/22/24]

661—503.2(103) Discipline. If a complaint alleging an act or acts in violation of Iowa Code chapter 103, rules adopted by the board, or any other provision of law deemed relevant by the board to the use of a license issued by the board is substantiated, the board may suspend the license for a specific period of time, or indefinitely, may revoke the license, or may reprimand the licensee. The holder of a license which is suspended or revoked will be notified of the suspension or revocation in writing by registered mail, return receipt requested, or by personal service. The notice will include a statement that the licensee has the right to appeal the reprimand, suspension or revocation to the board within 30 days of receiving the notice, and that the reprimand, revocation or suspension will not take effect until the time to file an appeal has expired. If an appeal is filed, the reprimand, suspension or revocation is stayed until the appeal has been acted upon. The suspension or revocation becomes final 30 days after delivery of the notice if a timely request for an appeal is not received by the board.

EXCEPTION: If the board finds that a violation which is the basis of the suspension or revocation is such that allowing the licensee to continue to engage in work covered by the license would present an imminent threat to the safety of the public, the board may provide that the suspension or revocation take effect immediately upon notice being delivered to the licensee.

[ARC 7880C, IAB 4/17/24, effective 5/22/24]

661—503.3(103) Action against an unlicensed person. If a person who is not licensed by the board has engaged in or is engaging in work requiring licensure by the board, the board may assess a civil penalty against the person, may seek an injunction to prevent the person from continuing to engage in such work, or both. A person who is accused of engaging in work where licensure is needed by law without having such a license will be notified of the specific allegations and intended remedial action by registered mail, return receipt requested, or by personal service. A person who is notified by the board of an intended remedial action under this rule may appeal the action as provided in rule 661—503.4(103). The intended remedial action becomes final 30 days after delivery of the notice if a timely request for an appeal is not received by the board.

[ARC 7880C, IAB 4/17/24, effective 5/22/24]

661—503.4(103) Appeals. A licensee whose license is disciplined, an applicant whose application for a license is denied, or a person who is not licensed by the board and who is assessed a civil penalty for engaging in an activity requiring a license may appeal the suspension, revocation, denial, or civil penalty to the board by notifying the board office of the appeal in writing within 30 calendar days after receiving notice of the suspension, revocation, denial, or civil penalty. Upon receipt of a timely appeal, the board will conduct a contested case hearing under 481—Chapter 10.

[ARC 7880C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 103.

[Filed emergency 12/17/07—published 1/16/08, effective 1/1/08]

[Filed ARC 8396B (Notice ARC 8160B, IAB 9/23/09), IAB 12/16/09, effective 2/1/10]

[Filed ARC 7880C (Notice ARC 7277C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 505
ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—EDUCATION

DIVISION I
POSTSECONDARY ELECTRICAL EDUCATION PROGRAMS

661—505.1 to 505.100 Reserved.

661—505.101(103) Program approval.

505.101(1) Pursuant to Iowa Code sections 103.12 and 103.12A, an educational institution that plans to offer a postsecondary electrical education program to prepare students to be licensed by the board needs to first obtain approval from the board for the program before students participate in the program. Separate approval is needed for a journeyman electrician program and for a residential electrician program.

505.101(2) The educational institution seeking approval is to apply to the board office on a form specified by the board. The application is to include a certification that the educational institution is currently accredited by a recognized regional or national educational accrediting organization.

505.101(3) Applications seeking initial approval of a journeyman electrician program or a residential electrician program are to be submitted to the board at least 60 days prior to student participation in the program.

505.101(4) The board may set times for periodic review of approved programs and can develop policies that address the following:

- a. Requirements for the submission of applications.
- b. Standards required for program approval.
- c. Standards for withdrawal of approval or discontinuation of an approved program.
- d. Standards for educational content and class attendance, qualifications for instructors, documentation and reporting needed to establish compliance with program requirements, and specification of degrees or diplomas awarded.

505.101(5) Information regarding approved postsecondary electrical education programs may be obtained by contacting the board office. A list of approved postsecondary electrical education programs and other information about postsecondary electrical education programs will be posted on the board's website.

[ARC 7881C, IAB 4/17/24, effective 5/22/24]

661—505.102(103) Standards for postsecondary electrical education programs. The board will develop policies establishing the following minimum standards for an approved postsecondary electrical education program:

505.102(1) All necessary subject matter areas as published by the board and available on request from the board office and from the board website. Instruction is to include at least four hours of instruction on the Iowa electrical statute, Iowa Code chapter 103, with a minimum of one hour on Iowa electrical licensing requirements.

505.102(2) Minimum number of contact hours and necessary program attendance policies. Each approved program is to include 30 to 40 percent of contact hours that involve lecture, with all remaining hours consisting of laboratory or shop hours. A student cannot take the licensing examination until all contact hours and the specified number of hours of on-the-job training are completed.

a. A postsecondary electrical education program for a journeyman electrician license is to include at least 2,000 hours of instruction, with the student completing at least 6,000 hours of on-the-job training before the student will be eligible to take the journeyman electrician examination.

b. A postsecondary electrical education program for a residential electrician license is to include at least 1,000 hours of instruction, with the student completing at least 4,000 hours of on-the-job training before the student will be eligible to take the residential electrician examination.

505.102(3) Minimum qualifications for instructors which include:

- a. Current licensing as an electrician, as set out in the board's policy; and
- b. Compliance with standards set by the Iowa department of education for an instructor at a community college.

[ARC 7881C, IAB 4/17/24, effective 5/22/24]

DIVISION II
CONTINUING EDUCATION

661—505.103 to 505.200 Reserved.

661—505.201(103) Continuing education requirements. Each holder of a three-year license is to complete 18 hours of continuing education approved by the board between the time of issuance of the license and prior to issuance of a renewal license.

EXCEPTION: A holder of a license in a category which may be issued for a three-year period whose license is issued for less than a three-year period only needs to complete six hours of continuing education prior to renewal of the license for each year or portion of a year for which the license has been issued.

[ARC 7881C, IAB 4/17/24, effective 5/22/24]

661—505.202(103) Course approval.

505.202(1) Any person or institution that plans to offer continuing education courses to meet the requirements of rule 661—505.201(103) is to apply for approval to the board office on a form specified by the board.

505.202(2) Approval by the board should be obtained prior to a course's being offered to a licensee in order to meet the requirements of rule 661—505.201(103).

505.202(3) Applications for initial approval of a continuing education course are to be submitted to the board not less than 45 days prior to student participation in the course.

505.202(4) Approval of a continuing education course is normally for the duration of the three-year licensing period during which approval is received, although approval may be withdrawn for cause prior to the expiration of the licensing period.

505.202(5) Applications for renewal of approval of continuing education courses are to be submitted to the board at least 45 days prior to the expiration of the three-year licensing period. For purposes of this subrule, "renewal" may include the updating of course material in a course previously approved for delivery by the same instructor.

505.202(6) Information regarding approved continuing education courses may be obtained by contacting the board office. A list of approved continuing education courses will be posted on the board website.

[ARC 7881C, IAB 4/17/24, effective 5/22/24]

661—505.203(103) Requirements for continuing education programs. A continuing education program can be approved by the board only if the following requirements are met:

505.203(1) The instructor or institution applying for approval of a continuing education course provides at least three letters from educational institutions or government agencies attesting to the instructor's knowledge of and qualifications to teach the subject matter of the course for which approval is sought.

505.203(2) Each instructor is responsible for:

- a. Obtaining and verifying course approval prior to delivery of the course.
- b. Facilitating auditing of the course by any board member or member of the staff of the board. No board or staff member may receive continuing education credit for an audited course.
- c. Issuing a certificate of completion to each student who completes the course.
- d. Submitting a class roster, indicating which students completed the course, to the board office

within 30 days of completion of the course.

[ARC 7881C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 103.

[Filed ARC 8396B (Notice ARC 8160B, IAB 9/23/09), IAB 12/16/09, effective 2/1/10]

[Filed ARC 9626B (Notice ARC 9515B, IAB 5/18/11), IAB 7/27/11, effective 9/1/11]
[Filed ARC 2245C (Notice ARC 2057C, IAB 7/8/15), IAB 11/25/15, effective 12/30/15]
[Filed ARC 7881C (Notice ARC 7280C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 506
MILITARY SERVICE AND VETERAN RECIPROCITY FOR ELECTRICIANS AND ELECTRICAL
CONTRACTORS

Rescinded **ARC 7882C**, IAB 4/17/24, effective 5/22/24

CHAPTERS 507 to 549
Reserved

REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, chapter 1245.

TITLE I
*ADMINISTRATION*CHAPTER 1
CONVERSION CHARTCHAPTERS 2 to 4
ReservedCHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

- 5.1(17A,22,421,422) Definitions
- 5.2(17A,22,421,422) Statement of policy
- 5.3(17A,22,421,422) Requests for public records
- 5.4(17A,22,421,422) Access to confidential records
- 5.5(17A,22,421,422) Requests for treatment of a record as a confidential record and its withholding from examination
- 5.6(17A,22,421,422) Consensual disclosure of confidential records
- 5.7(17A,22,421,422) Tax information disclosure designation
- 5.8(17A,22,421,422) Disclosures without the consent of the subject
- 5.9(17A,22,421,422) Release to subject or owner of record
- 5.10(17A,22,421,422) Personally identifiable information collected and stored by the department
- 5.11(17A,22,421,422) Retention of submitted documents
- 5.12(17A,22,421,422) Limited applicability

CHAPTER 6
ORGANIZATION

- 6.1(17A) Establishment of the department
- 6.2(17A) Mission
- 6.3(17A) Office
- 6.4(17A) Department Internet website
- 6.5(17A) Organization of the department

CHAPTER 7
APPEALS, TAXPAYER REPRESENTATION, AND OTHER ADMINISTRATIVE PROCEDURES

- 7.1(421,17A) Applicability and scope of rules
- 7.2(421,17A) Definitions
- 7.3(17A) How to submit an appeal, petition or related documents; service
- 7.4(17A) Time requirements for filings
- 7.5(17A) Form and style of documents
- 7.6(17A,22,421,422) Authorized representatives—powers of attorney and representative certifications
- 7.7(17A) Docket
- 7.8(17A) Identifying details, requests for redaction
- 7.9(17A) Appeals
- 7.10(17A) Resolution of tax liability
- 7.11(17A,421) Informal stage of the appeals process
- 7.12(17A,421) Dismissal of appeals
- 7.13(17A,421) Expedited hearings and demands to waive informal proceedings
- 7.14(17A) Answer
- 7.15(17A) Subpoenas

7.16(17A)	Commencement of contested case proceedings
7.17(17A)	Discovery
7.18(17A)	Prehearing conference
7.19(17A)	Contested case proceedings
7.20(17A)	Interventions
7.21(17A)	Record and transcript
7.22(17A)	Application for rehearing
7.23(17A)	Ex parte communications and disqualification
7.24(17A)	Declaratory order—in general
7.25(17A)	Department procedure for rule making
7.26(17A)	Public inquiries on rule making and the rule-making records
7.27(17A)	Criticism of rules
7.28(17A)	Waiver of certain department rules
7.29(17A)	Petition for rule making
7.30(9C,91C)	Procedure for nonlocal business entity bond forfeitures
7.31	Reserved
7.32(421)	Time and place of taxpayer interviews
7.33(421)	Mailing to the last-known address or personal delivery of notices of assessment and refund denial letters
7.34	Reserved
7.35(421)	Taxpayer designation of tax type and period to which voluntary payments are to be applied
7.36(421)	Tax return preparers
7.37(441)	Appeals of director's rejection of assessor appointment or reappointment
7.38(441)	Appeals and hearings regarding the director's intent to remove a member of the board of review
7.39(17A)	Licenses

CHAPTER 8

FORMS AND COMMUNICATIONS

8.1(17A,421)	Definitions
8.2(17A,421)	Department forms
8.3(17A,421)	Substitute forms
8.4(17A)	Description of forms
8.5(422)	Electronic filing of Iowa income tax returns
8.6(421)	Electing to receive communications in electronic format in lieu of paper
8.7(422,533)	Mandatory electronic filing for certain taxpayers

CHAPTER 9

Reserved

CHAPTER 10

INTEREST, PENALTY, EXCEPTIONS TO PENALTY, AND JEOPARDY ASSESSMENTS

10.1(421)	Definitions
10.2(421)	Interest
10.3(421,422,423,450,452A)	Interest on refunds and unpaid tax
10.4(421)	Frivolous return penalty
10.5(421)	Improper receipt of credit, refund, exemption, reimbursement, rebate, or other payment or benefit
10.6(421)	Penalties
10.7(421)	Waiver of penalty
10.8(421)	Tax return extension in disaster areas
10.9(421)	Failure to file penalty

10.10 to 10.19	Reserved	
		RETAIL SALES
10.20 to 10.29	Reserved	
		USE
10.30 to 10.39	Reserved	
		INDIVIDUAL INCOME
10.40 to 10.49	Reserved	
		WITHHOLDING
10.50 to 10.55	Reserved	
		CORPORATE
10.56 to 10.65	Reserved	
		FINANCIAL INSTITUTIONS
10.66 to 10.70	Reserved	
		MOTOR FUEL
10.71(452A)	Penalty and enforcement provisions	
10.72(452A)	Interest	
10.73 to 10.75	Reserved	
		CIGARETTES AND TOBACCO
10.76(453A)	Penalties	
10.77(453A)	Interest	
10.78	Reserved	
10.79(453A)	Request for statutory exception to penalty	
10.80 to 10.84	Reserved	
		INHERITANCE
10.85 to 10.89	Reserved	
		IOWA ESTATE
10.90 to 10.95	Reserved	
		GENERATION SKIPPING
10.96 to 10.100	Reserved	
		FIDUCIARY INCOME
10.101 to 10.109	Reserved	
		HOTEL AND MOTEL
10.110 to 10.114	Reserved	
		ALL TAXES
10.115(421)	Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer	
		JEOPARDY ASSESSMENTS
10.116(422,453B)	Jeopardy assessments	
10.117(422,453B)	Procedure for posting bond	
10.118(422,453B)	Time limits	
10.119(422,453B)	Amount of bond	
10.120(422,453B)	Posting of bond	
10.121(422,453B)	Order	
10.122(422,453B)	Director's order	
10.123(422,453B)	Type of bond	
10.124(422,453B)	Form of surety bond	

- 10.125(422,453B) Duration of the bond
- 10.126(422,453B) Exoneration of the bond

CHAPTER 11
ADMINISTRATION

- 11.1(422,423) Definitions
- 11.2(422,423) Statute of limitations
- 11.3(422,423) Credentials and receipts
- 11.4(422,423) Retailers required to keep records
- 11.5(422,423) Audit of records
- 11.6(422,423) Billings
- 11.7(422,423) Collections
- 11.8(422,423) No property exempt from distress and sale
- 11.9(422,423) Information confidential
- 11.10(423) Bonding procedure

CHAPTERS 12 to 18
Reserved

CHAPTER 19

SETTLEMENTS—COMPROMISES AND ABATEMENTS OF TAX, PENALTY, OR INTEREST

- 19.1(421) Settlements
- 19.2(421) Amounts qualifying for settlement
- 19.3(421) Settlement procedures and limitations, generally
- 19.4(421) Applications for abatement
- 19.5(421) Offers in compromise
- 19.6(421) Voluntary disclosure agreements

CHAPTER 20

FILING AND EXTENSION OF TAX LIENS
AND CHARGING OFF UNCOLLECTIBLE TAX ACCOUNTS

- 20.1(422,423) Definitions
- 20.2(422,423) Place of filing
- 20.3(422,423) Fees

CHAPTER 21

FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS

- 21.1(421,26USC6402) Definitions
- 21.2(421,26USC6402) Prerequisites for requesting a federal offset
- 21.3(421,26USC6402) Submission of evidence
- 21.4(421,26USC6402) Procedure after submission of evidence

CHAPTER 22

COLLECTION OF DEBTS OWED THE STATE
OF IOWA OR A STATE AGENCY

- 22.1(421) Definitions
- 22.2(421) Participation guidelines
- 22.3(421) Duties of the agency

CHAPTER 23

DEBT COLLECTION AND SELLING OF PROPERTY
TO COLLECT DELINQUENT DEBTS

- 23.1(421,422,626,642) Definitions
- 23.2(421,422,626,642) Sale of property

CHAPTER 24
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED THE STATE OF IOWA OR
A STATE AGENCY

24.1(272D)	Definitions
24.2(272D)	Notice to person of potential sanction of license
24.3(272D)	Challenges
24.4(272D)	Issuance of certificate of noncompliance
24.5(272D)	Written agreements
24.6(272D)	Decision of the unit
24.7(272D)	Certificate of noncompliance to licensing authority
24.8(272D)	Requirements of the licensing authority
24.9(272D)	District court hearing

CHAPTER 25
CHALLENGES TO ADMINISTRATIVE LEVIES

25.1(421)	Administrative levies
25.2(421)	Challenges to administrative levies
25.3(421)	Challenge procedure
25.4(421)	Form and time of challenge
25.5(421)	Issues that may be raised

CHAPTER 26
SETOFF OF QUALIFYING DEBTS OWED TO PUBLIC AGENCIES

26.1(421)	Minimum qualifying debt amounts accepted
26.2(421)	Minimum setoff amount
26.3(421)	Memorandum of understanding required
26.4(421)	Certification to the department
26.5(421)	Notification of change in status of debt
26.6(421)	Multiple claims—priority of payment
26.7(421)	Challenges
26.8(421)	Requests for division of a public payment subject to setoff
26.9(421)	Transition period
26.10(421)	Fees

CHAPTER 27
SUBPOENA OF RECORDS FROM UTILITY COMPANIES
AND PUBLICATION OF NAMES OF DEBTORS

27.1(421)	Subpoena of records from public or private utility company
27.2(421)	List for publication
27.3(421)	Release of information

CHAPTERS 28 to 99
Reserved

TITLE II
PROPERTY TAX

CHAPTER 100
COLLECTION OF PROPERTY TAX

100.1(441)	Tax year
100.2(445)	Partial payment of tax
100.3(445)	When delinquent
100.4(446)	Payment of subsequent year taxes by purchaser
100.5(428,433,434,437,437A,438,85GA,SF451)	Central assessment confidentiality

- 100.6(446) Tax sale
- 100.7(445) Refund of tax
- 100.8(614) Delinquent property taxes

CHAPTER 101
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

- 101.1(437A) Who must file return
- 101.2(437A) Time and place for filing return
- 101.3(437A) Form for filing
- 101.4(437A) Payment of tax
- 101.5(437A) Statute of limitations
- 101.6(437A) Billings
- 101.7(437A) Refunds
- 101.8(437A) Abatement of tax
- 101.9(437A) Taxpayers required to keep records
- 101.10(437A) Credentials
- 101.11(437A) Audit of records
- 101.12(437A) Collections/reimbursements
- 101.13(437A) Information confidential

DIVISION II
STATEWIDE PROPERTY TAX

- 101.14(437A) Who must file return
- 101.15(437A) Time and place for filing return
- 101.16(437A) Form for filing
- 101.17(437A) Payment of tax
- 101.18(437A) Statute of limitations
- 101.19(437A) Billings
- 101.20(437A) Refunds
- 101.21(437A) Abatement of tax
- 101.22(437A) Taxpayers required to keep records
- 101.23(437A) Credentials
- 101.24(437A) Audit of records

CHAPTER 102
ASSESSMENT PRACTICES AND EQUALIZATION

- 102.1(405,427A,428,441,499B) Classification of real estate
- 102.2(421,428,441) Assessment and valuation of real estate
- 102.3(421,428,441) Valuation of agricultural real estate
- 102.4(421,428,441) Valuation of residential real estate
- 102.5(421,428,441) Valuation of commercial real estate
- 102.6(421,428,441) Valuation of industrial land and buildings
- 102.7(421,427A,428,441) Valuation of industrial machinery
- 102.8(428,441) Abstract of assessment
- 102.9(428,441) Reconciliation report
- 102.10(421) Assessment/sales ratio study
- 102.11(441) Equalization of assessments by class of property
- 102.12(441) Determination of aggregate actual values
- 102.13(441) Tentative equalization notices
- 102.14(441) Hearings before the department
- 102.15(441) Final equalization order and appeals

102.16(441)	Alternative method of implementing equalization orders
102.17(441)	Special session of boards of review
102.18(441)	Judgment of assessors and local boards of review
102.19(441)	Conference boards
102.20(441)	Board of review
102.21	Reserved
102.22(428,441)	Assessors
102.23	Reserved
102.24(421,428,441)	Valuation of dual classification property
102.25(441,443)	Omitted assessments
102.26(441)	Assessor compliance
102.27(441)	Assessor shall not assess own property
102.28(441)	Special counsel
102.29(441)	Application of two-tier assessment limitation

CHAPTER 103

EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

103.1(441)	Application for examination
103.2(441)	Examinations
103.3(441)	Eligibility requirements to take the examination
103.4(441)	Appraisal-related experience
103.5(441)	Regular certification
103.6(441)	Temporary certification
103.7	Reserved
103.8(441)	Deputy assessors—regular certification
103.9	Reserved
103.10(441)	Appointment of deputy assessors
103.11(441)	Special examinations
103.12(441)	Register of eligible candidates
103.13(441)	Course of study for provisional appointees
103.14(441)	Examining board
103.15(441)	Appointment of assessor
103.16(441)	Reappointment of assessor
103.17(441)	Removal of assessor
103.18(421,441)	Courses offered by the department of revenue

CHAPTER 104

PROPERTY TAX CREDIT AND RENT REIMBURSEMENT

104.1(425)	Eligible claimants
104.2(425)	Separate homesteads—husband and wife property tax credit
104.3(425)	Dual claims
104.4(425)	Multipurpose building
104.5(425)	Multidwelling
104.6(425)	Income
104.7(425)	Joint tenancy
104.8(425)	Amended claim
104.9(425)	Simultaneous homesteads
104.10(425)	Confidential information
104.11(425)	Mobile, modular, and manufactured homes
104.12(425)	Totally disabled
104.13(425)	Nursing homes
104.14(425)	Household

104.15(425)	Homestead
104.16(425)	Household income
104.17(425)	Timely filing of claims
104.18(425)	Separate homestead—husband and wife rent reimbursements
104.19(425)	Gross rent/rent constituting property taxes paid
104.20(425)	Leased land
104.21(425)	Property: taxable status
104.22(425)	Special assessments
104.23(425)	Suspended, delinquent, or canceled taxes
104.24(425)	Income: spouse
104.25(425)	Common law marriage
104.26	Reserved
104.27(425)	Special assessment credit
104.28(425)	Credit applied
104.29(425)	Deceased claimant
104.30(425)	Audit of claim
104.31(425)	Extension of time for filing a claim
104.32(425)	Annual adjustment factor
104.33(425)	Proration of claims
104.34(425)	Unreasonable hardship
104.35(425)	Transition period

CHAPTER 105

MOBILE, MODULAR, AND MANUFACTURED HOME TAX

105.1(435)	Definitions
105.2(435)	Movement of home to another county
105.3(435)	Sale of home
105.4(435)	Reduced tax rate
105.5(435)	Taxation—real estate
105.6(435)	Taxation—square footage
105.7(435)	Audit by department of revenue
105.8(435)	Collection of tax

CHAPTER 106

DETERMINATION OF VALUE OF RAILROAD COMPANIES

106.1(434)	Definitions of terms
106.2(434)	Filing of annual reports
106.3(434)	Comparable sales
106.4(434)	Stock and debt approach to unit value
106.5(434)	Income capitalization approach to unit value
106.6(434)	Cost approach to unit value
106.7(434)	Correlation
106.8(434)	Allocation of unit value to state
106.9(434)	Exclusions

CHAPTER 107

DETERMINATION OF VALUE OF UTILITY COMPANIES

107.1(428,433,437,438)	Definition of terms
107.2(428,433,437,438)	Filing of annual reports
107.3(428,433,437,438)	Comparable sales
107.4(428,433,437,438)	Stock and debt approach to unit value
107.5(428,433,437,438)	Income capitalization approach to unit value
107.6(428,433,437,438)	Cost approach to unit value

- 107.7(428,433,437,438) Correlation
- 107.8(428,433,437,438) Allocation of unit value to state

CHAPTER 108
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

- 108.1(437B) Who must file return
- 108.2(437B) Time and place for filing return
- 108.3(437B) Form for filing
- 108.4(437B) Payment of tax
- 108.5(437B) Statute of limitations
- 108.6(437B) Billings
- 108.7(437B) Refunds
- 108.8(437B) Abatement of tax
- 108.9(437B) Taxpayers required to keep records
- 108.10(437B) Credentials
- 108.11(437B) Audit of records
- 108.12(437B) Information confidential

STATEWIDE PROPERTY TAX

- 108.13(437B) Who must file return
- 108.14(437B) Time and place for filing return
- 108.15(437B) Form for filing
- 108.16(437B) Payment of tax
- 108.17(437B) Statute of limitations
- 108.18(437B) Billings
- 108.19(437B) Refunds
- 108.20(437B) Abatement of tax
- 108.21(437B) Taxpayers required to keep records
- 108.22(437B) Credentials
- 108.23(437B) Audit of records

CHAPTER 109
REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE

- 109.1(428A) Real estate transfer tax: Responsibility of county recorders
- 109.2(428A) Taxable status of real estate transfers
- 109.3(428A) Declarations of value: Responsibility of county recorders and city and county assessors
- 109.4(428A) Certain transfers of agricultural realty
- 109.5(428A) Form completion and filing requirements
- 109.6(428A) Public access to declarations of value

CHAPTER 110
PROPERTY TAX CREDITS AND EXEMPTIONS

- 110.1(425) Homestead tax credit
- 110.2(22,35,426A) Military service tax exemption
- 110.3(427) Pollution control and recycling property tax exemption
- 110.4(427) Low-rent housing for the elderly and persons with disabilities
- 110.5(427) Speculative shell buildings
- 110.6(427B) Industrial property tax exemption
- 110.7(427B) Assessment of computers and industrial machinery and equipment
- 110.8(404) Urban revitalization partial exemption

110.9(427C,441)	Forest and fruit-tree reservations
110.10(427B)	Underground storage tanks
110.11(425A)	Family farm tax credit
110.12(427)	Methane gas conversion property
110.13(427B,476B)	Wind energy conversion property
110.14(427)	Mobile home park storm shelter
110.15(427)	Barn and one-room schoolhouse preservation
110.16(426)	Agricultural land tax credit
110.17(427)	Indian housing property
110.18(427)	Property used in value-added agricultural product operations
110.19(427)	Dwelling unit property within certain cities
110.20(427)	Nursing facilities
110.21(368)	Annexation of property by a city
110.22(427)	Port authority
110.23(427A)	Concrete batch plants and hot mix asphalt facilities
110.24(427)	Airport property
110.25(427A)	Car wash equipment
110.26(427)	Web search portal and data center business property
110.27(427)	Privately owned libraries and art galleries
110.28(404B)	Disaster revitalization area
110.29(427)	Geothermal heating and cooling systems installed on property classified as residential
110.30(426C)	Business property tax credit
110.31(427)	Broadband infrastructure
110.32(427,428,433,434,435,437,438)	Property aiding in disaster or emergency-related work
110.33 to 110.48	Reserved
110.49(441)	Commercial and industrial property tax replacement—county replacement claims
110.50(427,441)	Responsibility of local assessors
110.51(441)	Responsibility of local boards of review
110.52(427)	Responsibility of director of revenue
110.53(427)	Application for exemption
110.54(427)	Partial exemptions
110.55(427,441)	Taxable status of property
110.56(427)	Abatement of taxes

CHAPTER 111
ADMINISTRATION

111.1(441)	Establishment
111.2(441)	General operation
111.3(441)	Location
111.4(441)	Purpose

CHAPTER 112
CERTIFICATION

112.1(441)	General
112.2(441)	Confidentiality
112.3(441)	Certification of assessors
112.4(441)	Certification of deputy assessors
112.5(441)	Type of credit
112.6(441)	Retaking examination
112.7(441)	Instructor credit

- 112.8(441) Conference board and assessor notification
- 112.9(441) Director of revenue notification

CHAPTER 113
COURSES

- 113.1(441) Course selection
- 113.2(441) Scheduling of courses
- 113.3(441) Petitioning to add, delete or modify courses
- 113.4(441) Course participation
- 113.5(441) Retaking a course
- 113.6(441) Continuing education program for assessors

CHAPTER 114
REVIEW OF AGENCY ACTION

- 114.1(441) Decisions final
- 114.2(441) Grievance and appeal procedures

CHAPTER 115
PROPERTY ASSESSMENT APPEAL BOARD

- 115.1(421,441) Applicability and definitions
- 115.2(421,441) Appeal and answer
- 115.3(421,441) Nonelectronic service and filing of documents
- 115.4(421,441) Electronic filing system
- 115.5(421,441) Motions and settlements
- 115.6(421,441) Hearing scheduling and discovery plan
- 115.7(421,441) Discovery and evidence
- 115.8(421,441) Hearings before the board
- 115.9(421,441) Posthearing motions
- 115.10(17A,441) Judicial review
- 115.11(22,421) Records access

CHAPTER 116
REASSESSMENT EXPENSE FUND

- 116.1(421) Reassessment expense fund
- 116.2(421) Application for loan
- 116.3(421) Criteria for granting loan

CHAPTERS 117 to 199
Reserved

TITLE III
SALES, USE, AND EXCISE TAX

CHAPTER 200
DEFINITIONS

- 200.1(423) Definitions

CHAPTER 201
SALES AND USE TAX PERMITS

- 201.1(423) Permit required
- 201.2(423) Application for permit
- 201.3(423) Retailers selling nontaxable goods and services
- 201.4(423) Reinstatement of canceled permit
- 201.5(423) Permit not transferable—sale of business
- 201.6(423) Change of location

201.7(423)	Change of ownership
201.8(423)	Change of legal or operating name of a business
201.9(423)	Trustees, receivers, executors and administrators
201.10(423)	Substantially delinquent tax—denial of permit
201.11(423)	Substantially delinquent tax—revocation of permit
201.12(423)	Reinstatement of revoked permit
201.13(423)	Withdrawal of permit

CHAPTER 202

FILING RETURNS AND PAYMENT OF TAX

202.1(423)	Sales and use tax return filing
202.2(423)	Reporting sales or use taxes
202.3(423)	Sales and use tax remittance
202.4(423)	Due dates, weekends, and holidays
202.5(423)	Consolidated returns
202.6(423)	Direct pay permits and negotiated rate agreements
202.7(423)	Regular permit holders responsible for collection of tax
202.8(423)	Sale of business
202.9(423)	Bankruptcy, insolvency, or assignment for benefit of creditors
202.10(423)	Vending machines and other coin-operated devices
202.11(423)	Claim for refund of tax
202.12(423)	Immediate successor liability for unpaid tax
202.13(423)	Officers and partners—personal liability for unpaid tax
202.14(423)	Sales tax or use tax paid to another state
202.15(423)	Registered retailers selling tangible personal property on a conditional sale contract basis
202.16(423)	Registered vendors repossessing goods sold on a conditional sale contract basis

CHAPTER 203

ELEMENTS INCLUDED IN AND EXCLUDED FROM A TAXABLE SALE AND SALES PRICE

203.1(423)	Tax not to be included in price
203.2(423)	Finance charge
203.3(423)	Retailers' discounts, trade discounts, rebates and coupons
203.4(423)	Excise tax included in and excluded from sales price
203.5(423)	Trade-ins
203.6(423)	Installation charges when tangible personal property is sold at retail
203.7(423)	Service charge and gratuity
203.8(423)	Payment from a third party
203.9(423)	Taxation of transactions due to rate change

CHAPTER 204

RULES NECESSARY TO IMPLEMENT THE STREAMLINED SALES AND USE TAX AGREEMENT

204.1(423)	Allowing use of the lowest tax rate within a database area and use of the tax rate for a five-digit area when a nine-digit zip code cannot be used
204.2(423)	Permissible categories of exemptions
204.3(423)	Requirement of uniformity in the filing of returns and remittance of funds
204.4(423)	Allocation of bad debts
204.5(423)	Purchaser refund procedures
204.6(423)	Relief from liability for reliance on taxability matrix
204.7(423)	Effective dates of taxation rate increases or decreases when certain services are furnished

CHAPTER 205
SOURCING OF TAXABLE SERVICES, TANGIBLE PERSONAL PROPERTY, AND SPECIFIED
DIGITAL PRODUCTS

- 205.1(423) Definitions
- 205.2(423) General sourcing rules for taxable services
- 205.3(423) First use of services performed on tangible personal property
- 205.4(423) Sourcing rules for personal care services
- 205.5(423) Sourcing of tickets or admissions to places of amusement, fairs, and athletic events
- 205.6(423) Sourcing rules for tangible personal property and specified digital products

CHAPTER 206
BUNDLED TRANSACTIONS

- 206.1(423) Taxability of bundled transactions
- 206.2(423) Bundled transaction
- 206.3(423) Transactions not taxable as bundled transactions

CHAPTER 207
REMOTE SALES AND MARKETPLACE SALES

- 207.1(423) Definitions
- 207.2(423) Administration; incorporation of 701—Chapter 11
- 207.3(423) Filing returns; payment of tax; penalty and interest; incorporation of 701—Chapter 202
- 207.4(423) Permits; incorporation of 701—Chapter 201
- 207.5(423) Retailers with physical presence in Iowa
- 207.6(423) Remote sellers—registration and collection obligations
- 207.7(423) Marketplace facilitators—registration and collection obligations
- 207.8(423) Advertising on a marketplace
- 207.9(423) Commencement of collection obligation and sales tax liability
- 207.10(423) Retailers registered and collecting who fail to meet or exceed sales threshold
- 207.11(423) Coupons; incorporation of rule 701—213.10(423)
- 207.12(423) Customer returns marketplace purchase directly to marketplace seller
- 207.13(423) Exempt and nontaxable sales
- 207.14(423) Other taxes for marketplace sales and items not subject to sales/use tax

CHAPTER 208
MULTILEVEL MARKETER AGREEMENTS

- 208.1(421) Multilevel marketers—in general

CHAPTER 209
Reserved

CHAPTER 210
PURCHASES BY BUSINESSES

- 210.1(423) Wholesalers and jobbers selling at retail
- 210.2(423) Materials and supplies sold to retail stores
- 210.3(423) Tangible personal property and specified digital products purchased for resale but incidentally consumed by the purchaser
- 210.4(423) Property furnished without charge by employers to employees
- 210.5(423) Owners or operators of buildings
- 210.6(423) Blacksmith and machine shops
- 210.7(423) Truckers engaged in retail business
- 210.8(423) Out-of-state truckers selling at retail in Iowa
- 210.9(423) Iowa dental laboratories

210.10(423)	Dental supply houses
210.11(423)	News distributors and magazine distributors
210.12(423)	Magazine subscriptions by independent dealers
210.13(423)	Sales by finance companies
210.14(423)	Bowling
210.15(423)	Various special problems relating to public utilities
210.16(423)	Sales of engraved, bound, printed, and vulcanized materials
210.17(423)	Communication services furnished by hotel to its guests
210.18(423)	Explosives used in mines, quarries and elsewhere
210.19(423)	Sales of signs at retail
210.20(423)	Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations

CHAPTER 211
TAXABLE SERVICES

211.1(423)	Definitions and scope
211.2(423)	Interstate commerce
211.3(423)	Services performed for employers
211.4(423)	Services purchased for resale
211.5(423)	Alteration and garment repair
211.6(423)	Dry cleaning, pressing, dyeing and laundering
211.7(423)	Sewing and stitching
211.8(423)	Shoe repair and shoeshine
211.9(423)	Furniture, rug, and upholstery repair and cleaning
211.10(423)	Fur storage and repair
211.11(423)	Investment counseling
211.12(423)	Bank and financial institution service charges
211.13(423)	Barber and beauty
211.14(423)	Photography and retouching
211.15(423)	Household appliance, television, and radio repair
211.16(423)	Jewelry and watch repair
211.17(423)	Machine operators
211.18(423)	Machine repair of all kinds
211.19(423)	Motor repair
211.20(423)	Oilers and lubricators
211.21(423)	Office and business machine repair
211.22(423)	Parking facilities
211.23(423)	Private employment agency, executive search agency
211.24(423)	Storage of household goods and mini-storage
211.25(423)	Telephone answering service
211.26(423)	Test laboratories
211.27(423)	Termite, bug, roach, and pest eradicators
211.28(423)	Tin and sheet metal repair
211.29(423)	Turkish baths, massage, and reducing salons
211.30(423)	Weighing
211.31(423)	Welding
211.32(423)	Wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl, and vegetables
211.33(423)	Wrecking service
211.34(423)	Cable and pay television
211.35(423)	Camera repair
211.36(423)	Gun repair

211.37(423)	Janitorial and building maintenance or cleaning
211.38(423)	Lawn care, landscaping, and tree trimming and removal
211.39(423)	Pet grooming
211.40(423)	Reflexology
211.41(423)	Tanning beds and tanning salons
211.42(423)	Water conditioning and softening
211.43(423)	Security and detective services
211.44(423)	Solid waste collection and disposal services
211.45(423)	Sewage services
211.46(423)	Aircraft rental
211.47(423)	Sign construction and installation
211.48(423)	Swimming pool cleaning and maintenance
211.49(423)	Taxidermy
211.50(423)	Dating services
211.51(423)	Personal transportation service
211.52(423)	Information services
211.53(423)	Software as a service
211.54(423)	Video game services and tournaments
211.55(423)	Services related to specified digital products or software sold as tangible personal property
211.56(423)	Storage of tangible or electronic files, documents, or other records

CHAPTER 212

GOVERNMENTS AND NONPROFITS

212.1(423)	Sales to certain corporations organized under federal statutes
------------	----------------------------------------------------------------

CHAPTER 213

MISCELLANEOUS TAXABLE SALES

213.1 and 213.2	Reserved
213.3(423)	Conditional sales contracts
213.4(423)	The sales price of sales of butane, propane and other like gases in cylinder drums, etc.
213.5(423)	Antiques, curios, old coins, collector's postage stamps, and currency exchanged for greater than face value
213.6	Reserved
213.7(423)	Consignment sales
213.8(423)	Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates, wood mounts and art productions
213.9	Reserved
213.10(423)	Sales on layaway
213.11(423)	Memorial stones
213.12(423)	Creditors and trustees
213.13(423)	Sale of pets
213.14(423)	Redemption of meal tickets, coupon books and merchandise cards as a taxable sale
213.15(423)	Rental of personal property in connection with the operation of amusements
213.16(423)	Repossessed goods
213.17	Reserved
213.18(423)	Tangible personal property made to order
213.19(423)	Used or secondhand tangible personal property
213.20(423)	Carpeting and other floor coverings
213.21(423)	Goods damaged in transit
213.22(423)	Snowmobiles, motorboats, and certain other vehicles

- 213.23(423) Photographers and photostaters
- 213.24 Reserved
- 213.25(423) Urban transit systems
- 213.26(423) Sales of prepaid telephone cards or calling services
- 213.27(423) Webinars

CHAPTER 214
AGRICULTURAL RULES

- 214.1(423) Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry
- 214.2(423) Packaging material used in agricultural production
- 214.3(423) Irrigation equipment used in agricultural production
- 214.4(423) Sale of a draft horse
- 214.5(423) Veterinary services
- 214.6(423) Commercial fertilizer and agricultural limestone
- 214.7(423) Sales of breeding livestock
- 214.8(423) Domesticated fowl
- 214.9(423) Agricultural health promotion items
- 214.10(423) Drainage tile
- 214.11(423) Materials used for seed inoculations
- 214.12(423) Fuel used in agricultural production
- 214.13(423) Water used in agricultural production
- 214.14(423) Bedding for agricultural livestock or fowl
- 214.15(423) Sales by farmers
- 214.16(423) Sales of livestock (including domesticated fowl) feeds
- 214.17(423) Farm machinery, equipment, and replacement parts used in livestock or dairy production
- 214.18(423) Machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants
- 214.19(423) Nonexclusive lists
- 214.20(423) Grain bins
- 214.21(423) Farm implement repair of all kinds
- 214.22(423) Warehousing of raw agricultural products

CHAPTER 215
EXEMPTIONS PRIMARILY BENEFITING MANUFACTURERS AND
OTHER PERSONS ENGAGED IN PROCESSING

- 215.1 Reserved
- 215.2(423) Carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used in processing
- 215.3(423) Services used in processing
- 215.4(423) Chemicals, solvents, sorbents, or reagents used in processing
- 215.5(423) Exempt sales of gases used in the manufacturing process
- 215.6(423) Sale of electricity to water companies
- 215.7(423) Wind energy conversion property
- 215.8(423) Exempt sales or rentals of core making and mold making equipment, and sand handling equipment
- 215.9(423) Chemical compounds used to treat water
- 215.10(423) Exclusive web search portal business and its exemption
- 215.11(423) Web search portal business and its exemption
- 215.12(423) Large data center business exemption
- 215.13(423) Data center business sales and use tax refunds

- 215.14(423) Exemption for the sale of computers, computer peripherals, machinery, equipment, replacement parts, supplies, and materials used to construct or self-construct computers, computer peripherals, machinery, equipment, replacement parts, and supplies used for certain manufacturing purposes
- 215.15(423) Exemption for the sale of property directly and primarily used in processing by a manufacturer
- 215.16(423) Exemption for the sale of property directly and primarily used by a manufacturer to maintain integrity or unique environmental conditions
- 215.17(423) Exemption for the sale of property directly and primarily used in research and development of new products or processes of processing
- 215.18(423) Exemption for the sale of computers and computer peripherals used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise
- 215.19(423) Exemption for the sale of property directly and primarily used in recycling or reprocessing of waste products
- 215.20(423) Exemption for the sale of pollution-control equipment used by a manufacturer
- 215.21(423) Exemption for the sale of fuel or electricity used in exempt property
- 215.22(423) Exemption for the sale of services for designing or installing new industrial machinery or equipment

CHAPTER 216

EVENTS, AMUSEMENTS, AND OTHER RELATED ACTIVITIES

- 216.1(423) Athletic events
- 216.2(423) Dance schools and dance studios
- 216.3(423) Golf and country clubs and all commercial recreation
- 216.4(423) Campgrounds
- 216.5(423) Rental of personal property in connection with the operation of amusements
- 216.6(423) Exempt sales by excursion boat licensees
- 216.7(423) Tangible personal property, specified digital products, or services given away as prizes

CHAPTER 217

TELECOMMUNICATION SERVICES

- 217.1(423) Taxable telecommunication service and ancillary service
- 217.2(423) Definitions
- 217.3(423) Imposition of tax
- 217.4(423) Exempt from the tax
- 217.5(423) Bundled transactions in telecommunication service
- 217.6(423) Sourcing telecommunication service
- 217.7(423) General billing issues
- 217.8(34A) Prepaid wireless 911 surcharge
- 217.9(423) State sales tax exemption for central office equipment and transmission equipment

CHAPTER 218

SALES AND SERVICES RELATED TO VEHICLES

- 218.1(423) Armored car
- 218.2(423) Vehicle repair
- 218.3(423) Motorcycle, scooter, and bicycle repair
- 218.4(423) Battery, tire, and allied
- 218.5(423) Boat repair
- 218.6(423) Vehicle wash and wax
- 218.7(423) Wrecker and towing
- 218.8(423) Flying service

218.9(423)	Aircraft rental
218.10(423)	Snowmobiles, motorboats, and certain other vehicles
218.11(423)	Motor fuel, special fuel, electric fuel, aviation fuels and gasoline
218.12(423)	Ships, barges, and other waterborne vessels

CHAPTER 219

SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

219.1(423)	General information
219.2(423)	Contractors—consumers of building materials, supplies, and equipment by statute
219.3(423)	Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
219.4(423)	Contractors, subcontractors or builders who are retailers
219.5(423)	Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
219.6(423)	Tangible personal property used or consumed by the manufacturer thereof
219.7(423)	Prefabricated structures
219.8(423)	Types of construction contracts
219.9(423)	Machinery and equipment sales contracts with installation
219.10(423)	Construction contracts with equipment sales (mixed contracts)
219.11(423)	Distinguishing machinery and equipment from real property
219.12(423)	Tangible personal property which becomes structures
219.13(423)	Tax on enumerated services
219.14(423)	Transportation cost
219.15(423)	Start-up charges
219.16(423)	Liability of subcontractors
219.17(423)	Liability of sponsors
219.18(423)	Withholding
219.19(423)	Resale certificates
219.20(423)	Reporting for use tax
219.21(423)	Exempt sale, lease, or rental of equipment used by contractors, subcontractors, or builders
219.22(423)	House and building moving
219.23(423)	Construction contracts with designated exempt entities

CHAPTER 220

EXEMPTIONS PRIMARILY OF BENEFIT TO CONSUMERS

220.1(423)	Newspapers, free newspapers and shoppers' guides
220.2(423)	Motor fuel, special fuel, aviation fuels and gasoline
220.3(423)	Sales of food and food ingredients
220.4(423)	Sales of candy
220.5(423)	Sales of prepared food
220.6(423)	Prescription drugs, medical devices, oxygen, and insulin
220.7(423)	Exempt sales of other medical devices which are not prosthetic devices
220.8(423)	Prosthetic devices, durable medical equipment, and mobility enhancing equipment
220.9(423)	Raffles
220.10(423)	Exempt sales of prizes
220.11(423)	Modular homes
220.12(423)	Access to on-line computer service
220.13	Reserved
220.14(423)	Exclusion from tax for property delivered by certain media
220.15(423)	Exempt sales of clothing and footwear during two-day period in August

- 220.16(423) State sales tax phase-out on energies
- 220.17(423) Sales of diapers

CHAPTER 221

MISCELLANEOUS NONTAXABLE TRANSACTIONS

- 221.1(423) Corporate mergers which do not involve taxable sales of tangible personal property or services
- 221.2(423) Sales of prepaid merchandise cards
- 221.3(423) Demurrage charges
- 221.4(423) Beverage container deposits
- 221.5(423) Exempt sales by excursion boat licensees
- 221.6(423) Advertising agencies, commercial artists and designers as an agent or as a nonagent of a client

CHAPTERS 222 to 224

Reserved

CHAPTER 225

RESALE AND PROCESSING EXEMPTIONS PRIMARILY
OF BENEFIT TO RETAILERS

- 225.1(423) Paper or plastic plates, cups, and dishes, paper napkins, wooden or plastic spoons and forks, and straws
- 225.2 Reserved
- 225.3(423) Services used in the repair or reconditioning of certain tangible personal property
- 225.4(423) Tangible personal property purchased by a person engaged in the performance of a service
- 225.5(423) Maintenance or repair of fabric or clothing
- 225.6(423) The sales price from the leasing of all tangible personal property subject to tax
- 225.7(423) Certain inputs used in taxable vehicle wash and wax services
- 225.8(423) Exemption for commercial enterprises

CHAPTERS 226 to 249

Reserved

CHAPTER 250

VEHICLES SUBJECT TO REGISTRATION

- 250.1(321) Definitions
- 250.2(321) Purchase price
- 250.3(321) Trades
- 250.4(321) Manufacturer's rebate
- 250.5(321) Selling and purchasing the same vehicle
- 250.6(321) Federal excise tax
- 250.7(321) Sales to a Native American
- 250.8(321) Sale of chassis with added equipment or accessories
- 250.9(321) Sale of a boat or ATV with a trailer
- 250.10(321) Administration
- 250.11(321) Shell businesses
- 250.12(321) Purchased for resale
- 250.13(321) Loans
- 250.14(321) Leased vehicles
- 250.15(321) Vehicles purchased for the purpose of being leased and used exclusively for interstate commerce
- 250.16(321) Iowa Code chapter 326 vehicles

250.17(321)	Vehicles purchased outside of Iowa
250.18(321)	Business entity to business entity transfers with the same ownership and purpose
250.19(321)	Homemade vehicles
250.20(321,423)	Glider kit vehicles

CHAPTER 251

AUTOMOBILE RENTAL EXCISE TAX

251.1(423C)	Definitions and characterizations
251.2(423C)	Tax imposed upon rental of automobiles
251.3(423C)	Lessor's obligation to collect tax
251.4(423C)	Administration of tax

CHAPTER 252

STATE-IMPOSED WATER SERVICE EXCISE TAX

252.1(423G)	Definitions
252.2(423G)	Imposition
252.3(423G)	Administration
252.4(423G)	Charges and fees included in the provision of water service
252.5(423G)	When water service is furnished for compensation
252.6(423G)	Itemization of tax required
252.7(423G)	Date of billing—effective date and repeal date
252.8(423G)	Filing returns; payment of tax
252.9(423G)	Permits

CHAPTER 253

STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND
MOTEL TAXES

253.1(423A)	Definitions
253.2(423A)	Administration
253.3(423A)	Tax imposition and exemptions
253.4(423A)	Filing returns; payment of tax; penalty and interest
253.5(423A)	Permits
253.6(423A)	Special collection and remittance obligations
253.7(423A)	Certification of funds

CHAPTER 254

ADMINISTRATION

254.1(453A)	Definitions
254.2(453A)	Credentials and receipts
254.3(453A)	Examination of records
254.4(453A)	Records
254.5(453A)	Form of invoice
254.6(453A)	Audit of records—cost, supplemental assessments and refund adjustments
254.7(453A)	Bonds
254.8 to 254.11	Reserved
254.12(453A)	Permit—license revocation
254.13(453A)	Permit applications and denials
254.14(453A)	Confidential information
254.15	Reserved
254.16(453A)	Inventory tax

CHAPTER 255
CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE NICOTINE
PRODUCTS OR VAPOR PRODUCTS

255.1(453A)	Permits required
255.2(453A)	Partial year permits—payment—refund—exchange
255.3(453A)	Bond requirements
255.4(453A)	Cigarette tax—attachment—exemption—exclusivity of tax
255.5(453A)	Cigarette tax stamps
255.6(453A)	Banks authorized to sell stamps—requirements—restrictions
255.7(453A)	Purchase of cigarette tax stamps—discount
255.8(453A)	Affixing stamps
255.9(453A)	Reports
255.10(453A)	Manufacturer's samples
255.11(453A)	Refund of tax—unused and destroyed stamps
255.12(453A)	Delivery sales of alternative nicotine products or vapor products

CHAPTER 256
TOBACCO TAX

256.1(453A)	Licenses
256.2(453A)	Distributor bond
256.3(453A)	Tax on tobacco products
256.4(453A)	Tax on little cigars
256.5(453A)	Distributor discount
256.6(453A)	Distributor returns
256.7(453A)	Consumer's return
256.8(453A)	Transporter's report
256.9(453A)	Free samples
256.10(453A)	Credits and refunds of taxes
256.11(453A)	Sales exempt from tax
256.12(81GA,HF339)	Retail permits required
256.13(81GA,HF339)	Permit issuance fee
256.14(81GA,HF339)	Refunds of permit fee
256.15(81GA,HF339)	Application for permit
256.16(81GA,HF339)	Records and reports
256.17(81GA,HF339)	Penalties

CHAPTER 257
UNFAIR CIGARETTE SALES

257.1(421B)	Definitions
257.2(421B)	Minimum price
257.3(421B)	Combination sales
257.4(421B)	Retail redemption of coupons
257.5(421B)	Exempt sales
257.6(421B)	Notification of manufacturer's price increase
257.7(421B)	Permit revocation

CHAPTER 258
TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION I
TOBACCO MASTER SETTLEMENT AGREEMENT

258.1(453C)	National uniform tobacco settlement
258.2(453C)	Definitions
258.3(453C)	Report required

258.4(453C)	Report information
258.5(453C)	Record-keeping requirement
258.6(453C)	Confidentiality
258.7 to 258.20	Reserved

DIVISION II

TOBACCO PRODUCT MANUFACTURERS' OBLIGATIONS AND PROCEDURES

258.21(80GA,SF375)	Definitions
258.22(80GA,SF375)	Directory of tobacco product manufacturers

CHAPTER 259
ADMINISTRATION

259.1(452A)	Definitions
259.2(452A)	Statute of limitations, supplemental assessments and refund adjustments
259.3(452A)	Taxpayers required to keep records
259.4(452A)	Audit—costs
259.5(452A)	Estimate gallonage
259.6(452A)	Timely filing of returns, reports, remittances, applications, or requests
259.7(452A)	Extension of time to file
259.8(452A)	Penalty and interest
259.9(452A)	Penalty and enforcement provisions
259.10(452A)	Application of remittance
259.11(452A)	Reports, returns, records—variations
259.12(452A)	Form of invoice
259.13(452A)	Credit card invoices
259.14(452A)	Original invoice retained by purchaser—certified copy if lost
259.15(452A)	Taxes erroneously or illegally collected
259.16(452A)	Credentials and receipts
259.17(452A)	Information confidential
259.18(452A)	Delegation to audit and examine
259.19(452A)	Practice and procedure before the department of revenue
259.20(452A)	Time for filing protest
259.21(452A)	Bonding procedure
259.22(452A)	Tax refund offset
259.23(452A)	Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses
259.24(452A)	Reinstatement of license canceled for cause
259.25(452A)	Fuel used in implements of husbandry
259.26(452A)	Excess tax collected
259.27(452A)	Retailer gallons report

CHAPTER 260

MOTOR FUEL AND UNDYED SPECIAL FUEL

260.1(452A)	Definitions
260.2(452A)	Tax rates—time tax attaches—responsible party
260.3(452A)	Exemption
260.4(452A)	Blended fuel taxation—nonterminal location
260.5(452A)	Tax returns—computations
260.6(452A)	Distribution allowance
260.7(452A)	Supplier credit—uncollectible account
260.8(452A)	Refunds
260.9(452A)	Claim for refund—payment of claim
260.10(452A)	Refund permit
260.11(452A)	Revocation of refund permit

260.12(452A)	Income tax credit in lieu of refund
260.13(452A)	Reduction of refund—sales and use tax
260.14(452A)	Terminal withdrawals—meters
260.15(452A)	Terminal and nonterminal storage facility reports and records
260.16(452A)	Method of reporting taxable gallonage
260.17(452A)	Transportation reports
260.18(452A)	Bill of lading or manifest requirements
260.19(452A)	Right of distributors and dealers to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel using a biofuel

CHAPTER 261

LIQUEFIED PETROLEUM GAS—

COMPRESSED NATURAL GAS—LIQUEFIED NATURAL GAS

261.1(452A)	Definitions
261.2(452A)	Tax rates—time tax attaches—responsible party—payment of the tax
261.3(452A)	Penalty and interest
261.4(452A)	Bonding procedure
261.5(452A)	Persons authorized to place L.P.G., L.N.G., or C.N.G. in the fuel supply tank of a motor vehicle
261.6(452A)	Requirements to be licensed
261.7(452A)	Licensed metered pumps
261.8(452A)	Single license for each location
261.9(452A)	Dealer's and user's license nonassignable
261.10(452A)	Separate storage—bulk sales—highway use
261.11(452A)	Combined storage—bulk sales—highway sales or use
261.12(452A)	Exemption certificates
261.13(452A)	L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems
261.14(452A)	Refunds
261.15(452A)	Notice of meter seal breakage
261.16(452A)	Location of records—L.P.G. or C.N.G. users and dealers

CHAPTER 262

ELECTRIC FUEL EXCISE TAX

262.1(452A)	Tax imposed
262.2(452A)	Licensing
262.3(452A)	Filing of returns and payment of tax
262.4(452A)	Charging station verification and testing
262.5(452A)	Refunds
262.6(452A)	Exemption certificates

CHAPTERS 263 to 268

Reserved

CHAPTER 269

ADMINISTRATION OF MARIJUANA AND
CONTROLLED SUBSTANCES STAMP TAX

269.1(453B)	Marijuana and controlled substances stamp tax
269.2(453B)	Sales of stamps
269.3(453B)	Refunds pertaining to unused stamps

CHAPTER 270

LOCAL OPTION SALES AND SERVICES TAX

270.1(423B)	Definitions
270.2(423B)	Imposition of local option taxes and notification to the department
270.3(423B)	Administration
270.4(423B)	Filing returns; payment of tax; penalty and interest
270.5(423B)	Permits
270.6(423B)	Sales subject to local option sales and services tax
270.7(423B,423E)	Sales not subject to local option tax, including transactions subject to Iowa use tax
270.8(423B)	Local option sales and services tax payments to local governments
270.9(423B)	Allocation procedure when sourcing of local option sales tax remitted to the department is unknown
270.10(423B)	Application of payments
270.11(423B)	Computation of local option tax due from mixed sales on excursion boats

CHAPTER 271

Reserved

CHAPTER 272

FLOOD MITIGATION PROGRAM

272.1(418)	Flood mitigation program
272.2(418)	Definitions
272.3(418)	Sales tax increment calculation
272.4(418)	Sales tax increment fund

CHAPTER 273

REINVESTMENT DISTRICTS PROGRAM

273.1(15J)	Purpose
273.2(15J)	Definitions
273.3(15J)	New state tax revenue calculations
273.4(15J)	State reinvestment district fund
273.5(15J)	Reinvestment project fund
273.6(15J)	End of deposits—district dissolution

CHAPTER 274

LOCAL OPTION SALES TAX URBAN RENEWAL PROJECTS

274.1(423B)	Urban renewal project
274.2(423B)	Definitions
274.3(423B)	Establishing sales and revenue growth
274.4(423B)	Requirements for cities adopting an ordinance
274.5(423B)	Identification of retail establishments
274.6(423B)	Calculation of base year taxable sales amount
274.7(423B)	Determination of tax growth increment amount
274.8(423B)	Distribution of tax base and growth increment amounts
274.9(423B)	Examples
274.10(423B)	Ordinance term

CHAPTER 275

REBATE OF IOWA SALES TAX PAID

275.1(423)	Sanctioned automobile racetrack facilities
275.2(423)	Baseball and softball complex sales tax rebate
275.3(423)	Raceway facility sales tax rebate

CHAPTER 276

FACILITATING BUSINESS RAPID RESPONSE TO STATE-DECLARED DISASTERS

- 276.1(29C) Purpose
- 276.2(29C) Definitions
- 276.3(29C) Disaster or emergency-related work

CHAPTER 277

SALES AND USE TAX REFUND FOR BIODIESEL PRODUCTION

- 277.1(423) Biodiesel production refund

CHAPTER 278

REFUNDS FOR ELIGIBLE BUSINESSES UNDER ECONOMIC DEVELOPMENT
AUTHORITY PROGRAMS

- 278.1(15) Sales and use tax refund for eligible businesses

CHAPTERS 279 to 281

Reserved

CHAPTER 282

RECEIPTS SUBJECT TO USE TAX DEPENDING ON METHOD OF TRANSACTION

- 282.1(423) Transaction consummated outside this state
- 282.2(423) Sales by federal government or agencies to consumers
- 282.3(423) Fuel consumed in creating power, heat or steam for processing or generating electric current
- 282.4(423) Taxation of Native Americans
- 282.5(423) Property used to manufacture certain vehicles to be leased
- 282.6(423) Out-of-state rental of vehicles subject to registration subsequently used in Iowa
- 282.7(423) Sales of mobile homes, manufactured housing, and related property and services
- 282.8(423) Tax imposed on the use of manufactured housing as tangible personal property and as real estate

CHAPTER 283

Reserved

CHAPTER 284

EXEMPT SALES

- 284.1(422,423) Gross receipts expended for educational, religious, and charitable purposes
- 284.2(422) Fuel used in processing—when exempt
- 284.3(422,423) Processing exemptions
- 284.4 Reserved
- 284.5(422,423) Sales to the American Red Cross, the Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and U.S.O
- 284.6(422,423) Sales of vehicles subject to registration—new and used—by dealers
- 284.7(422,423) Sales to certain federal corporations
- 284.8(422) Sales in interstate commerce—goods transported or shipped from this state
- 284.9(422,423) Sales of breeding livestock, fowl and certain other property used in agricultural production
- 284.10(422,423) Materials used for seed inoculations
- 284.11(422,423) Educational institution
- 284.12(422) Coat or hat checkrooms
- 284.13(422,423) Railroad rolling stock
- 284.14(422,423) Chemicals, solvents, sorbents, or reagents used in processing
- 284.15(422,423) Demurrage charges
- 284.16(422,423) Sale of a draft horse

284.17(422,423)	Beverage container deposits
284.18(422,423)	Films, video tapes and other media, exempt rental and sale
284.19(422,423)	Gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to certain nonprofit corporations exempt from tax
284.20(422)	Raffles
284.21	Reserved
284.22(422,423)	Modular homes
284.23(422,423)	Sales to other states and their political subdivisions
284.24(422)	Nonprofit private museums
284.25(422,423)	Exempt sales by excursion boat licensees
284.26(422,423)	Bedding for agricultural livestock or fowl
284.27(422,423)	Statewide notification center service exemption
284.28(422,423)	State fair and fair societies
284.29(422,423)	Reciprocal shipment of wines
284.30(422,423)	Nonprofit organ procurement organizations
284.31(422,423)	Sale of electricity to water companies
284.32(422)	Food and beverages sold by certain organizations are exempt
284.33(422,423)	Sales of building materials, supplies and equipment to not-for-profit rural water districts
284.34(422,423)	Sales to hospices
284.35(422,423)	Sales of livestock ear tags
284.36(422,423)	Sale or rental of information services
284.37(422,423)	Temporary exemption from sales tax on certain utilities
284.38(422,423)	State sales tax phase-out on energies
284.39(422,423)	Art centers
284.40(422,423)	Community action agencies
284.41(422,423)	Legislative service bureau

CHAPTER 285

TAXABLE AND EXEMPT SALES DETERMINED BY METHOD
OF TRANSACTION OR USAGE

285.1(422,423)	Tangible personal property purchased from the United States government
285.2(422,423)	Sales of butane, propane and other like gases in cylinder drums, etc.
285.3(422,423)	Chemical compounds used to treat water
285.4(422)	Mortgages and trustees
285.5(423)	Sales to federal, state, county, municipal, or tribal government or the government's agencies or instrumentalities
285.6(422,423)	Relief agencies
285.7(422,423)	Containers, including packing cases, shipping cases, wrapping material and similar items
285.8(422)	Auctioneers
285.9(422)	Sales by farmers
285.10(422,423)	Florists
285.11(422,423)	Landscaping materials
285.12(422,423)	Hatcheries
285.13(422,423)	Sales by the state of Iowa, its agencies and instrumentalities
285.14(422,423)	Sales of livestock and poultry feeds
285.15(422,423)	Student fraternities and sororities
285.16(422,423)	Photographers and photostaters
285.17(422,423)	Gravel and stone
285.18(422,423)	Sale of ice

285.19(422,423)	Antiques, curios, old coins or collector's postage stamps
285.20(422,423)	Communication services
285.21(422,423)	Morticians or funeral directors
285.22(422,423)	Physicians, dentists, surgeons, ophthalmologists, oculists, optometrists, and opticians
285.23(422)	Veterinarians
285.24(422,423)	Hospitals, infirmaries and sanitariums
285.25(422,423)	Warranties and maintenance contracts
285.26(422)	Service charge and gratuity
285.27(422)	Advertising agencies, commercial artists, and designers
285.28(422,423)	Casual sales
285.29(422,423)	Processing, a definition of the word, its beginning and completion characterized with specific examples of processing
285.30(422)	Taxation of American Indians
285.31(422,423)	Tangible personal property purchased by one who is engaged in the performance of a service
285.32	Reserved
285.33(422,423)	Printers' and publishers' supplies exemption with retroactive effective date
285.34(422,423)	Automatic data processing
285.35(422,423)	Drainage tile
285.36(422,423)	True leases and purchases of tangible personal property by lessors
285.37(422,423)	Motor fuel, special fuel, aviation fuels and gasoline
285.38(422,423)	Urban transit systems
285.39(422,423)	Sales or services rendered, furnished, or performed by a county or city
285.40(422,423)	Renting of rooms
285.41(422,423)	Envelopes for advertising
285.42(422,423)	Newspapers, free newspapers and shoppers' guides
285.43(422,423)	Written contract
285.44(422,423)	Sale or rental of farm machinery and equipment
285.45	Reserved
285.46(422,423)	Automotive fluids
285.47(422,423)	Maintenance or repair of fabric or clothing
285.48(422,423)	Sale or rental of farm machinery, equipment, replacement parts, and repairs used in livestock, dairy, or plant production
285.49(422,423)	Aircraft sales, rental, component parts, and services exemptions prior to, on, and after July 1, 1999
285.50(422,423)	Property used by a lending organization
285.51(422,423)	Sales to nonprofit legal aid organizations
285.52(422,423)	Irrigation equipment used in farming operations
285.53(422,423)	Sales to persons engaged in the consumer rental purchase business
285.54(422,423)	Sales of advertising material
285.55(422,423)	Drop shipment sales
285.56(422,423)	Wind energy conversion property
285.57(422,423)	Exemptions applicable to the production of flowering, ornamental, and vegetable plants
285.58	Reserved
285.59(422,423)	Exempt sales to nonprofit hospitals
285.60(422,423)	Exempt sales of gases used in the manufacturing process
285.61(422,423)	Exclusion from tax for property delivered by certain media

CHAPTERS 286 and 287

Reserved

CHAPTER 288

DETERMINATION OF A SALE AND SALE PRICE

288.1 and 288.2	Reserved
288.3(423)	Exemption certificates, direct pay permits, fuel used in processing, and beer and wine wholesalers
288.4 to 288.7	Reserved
288.8(423)	Returned merchandise
288.9 and 288.10	Reserved
288.11(423)	Leased departments
288.12(423)	Excise tax included in and excluded from gross receipts
288.13(423)	Freight, other transportation charges, and exclusions from the exemption applicable to these services
288.14	Reserved
288.15(423)	Premiums and gifts

CHAPTER 289

UNDERGROUND STORAGE TANK RULES
INCORPORATED BY REFERENCE

289.1(424)	Rules incorporated
------------	--------------------

CHAPTERS 290 to 299

Reserved

TITLE IV
*INDIVIDUAL INCOME TAX*CHAPTER 300
ADMINISTRATION

300.1(422)	Definitions
300.2(422)	Statute of limitations
300.3(422)	Retention of records
300.4(422)	Authority for deductions
300.5(422)	Jeopardy assessments
300.6(422)	Information deemed confidential
300.7	Reserved
300.8(422)	Delegations to audit and examine
300.9(422)	Bonding procedure
300.10(422)	Indexation
300.11	Reserved
300.12(422)	Indexation of the optional standard deduction for inflation
300.13(422)	Reciprocal tax agreements
300.14(422)	Information returns for reporting income payments to the department of revenue
300.15(422)	Relief from joint and several liability under Iowa Code section 422.21(7) for substantial understatement of tax attributable to nonrequesting spouse or former spouse
300.16(422)	Preparation of taxpayers' returns by department employees
300.17(422)	Resident determination
300.18(422)	Tax treatment of income repaid in current tax year which had been reported on prior Iowa individual income tax return

CHAPTER 301

FILING RETURN AND PAYMENT OF TAX

301.1(422)	Who must file
301.2(422)	Time and place for filing

301.3(422)	Form for filing
301.4(422)	Filing status
301.5(422)	Payment of tax
301.6(422)	Minimum tax
301.7(422)	Tax on lump-sum distributions
301.8(422)	State income tax limited to taxpayer's net worth immediately before the distressed sale
301.9(422)	Special tax computation for all low-income taxpayers except single taxpayers
301.10(422)	Election to report excess income from sale or exchange of livestock due to drought in the next tax year
301.11(422)	Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action
301.12(422)	Tax benefits for persons in the armed forces deployed outside the United States and for certain other persons serving in support of those forces
301.13	Reserved
301.14(422)	Tax benefits for persons serving in support of the Bosnia-Herzegovina hazardous duty area
301.15(422)	Special tax computation for taxpayers who are 65 years of age or older

CHAPTER 302

DETERMINATION OF NET INCOME

302.1(422)	Net income defined
302.2(422)	Interest and dividends from federal securities
302.3(422)	Interest and dividends from foreign securities and securities of state and other political subdivisions
302.4	Reserved
302.5(422)	Military pay
302.6(422)	Interest and dividend income
302.7(422)	Current year capital gains and losses
302.8(422)	Gains and losses on property acquired before January 1, 1934
302.9(422)	Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
302.10 and 302.11	Reserved
302.12(422)	Income from partnerships or limited liability companies
302.13(422)	Subchapter "S" income
302.14(422)	Contract sales
302.15(422)	Reporting of incomes by married taxpayers who file a joint federal return but elect to file separately for Iowa income tax purposes
302.16(422)	Income of nonresidents
302.17(422)	Income of part-year residents
302.18(422)	Net operating loss carrybacks and carryovers
302.19(422)	Casualty losses
302.20(422)	Adjustments to prior years
302.21(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
302.22(422)	Disability income exclusion
302.23(422)	Social security benefits
302.24(99E)	Lottery prizes
302.25 and 302.26	Reserved
302.27(422)	Incomes from distressed sales of qualifying taxpayers
302.28	Reserved
302.29(422)	Intangible drilling costs

302.30(422)	Percentage depletion
302.31(422)	Away-from-home expenses of state legislators
302.32(422)	Interest and dividends from regulated investment companies which are exempt from federal income tax
302.33	Reserved
302.34(422)	Exemption of restitution payments for persons of Japanese ancestry
302.35(422)	Exemption of Agent Orange settlement proceeds received by disabled veterans or beneficiaries of disabled veterans
302.36(422)	Exemption of interest earned on bonds issued to finance beginning farmer loan program
302.37(422)	Exemption of interest from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board
302.38	Reserved
302.39(422)	Exemption of interest from bonds or notes issued to fund the 911 emergency telephone system
302.40(422)	Exemption of active-duty military pay of national guard personnel and armed forces reserve personnel received for services related to operation desert shield
302.41(422)	Capital gain exclusion for elected employee-owned stock in a qualified corporation
302.42(422)	Depreciation of speculative shell buildings
302.43(422)	Retroactive exemption for payments received for providing unskilled in-home health care services to a relative
302.44(422,541A)	Individual development accounts
302.45(422)	Exemption for distributions from pensions, annuities, individual retirement accounts, or deferred compensation plans received by nonresidents of Iowa
302.46(422)	Taxation of compensation of nonresident members of professional athletic teams
302.47(422)	Exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors
302.48(422)	Health insurance premiums deduction
302.49(422)	Employer social security credit for tips
302.50(422)	Computing state taxable amounts of pension benefits from state pension plans
302.51(422)	Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area
302.52(422)	Mutual funds
302.53(422)	Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted
302.54(422)	Roth individual retirement accounts
302.55(422)	Exemption of income payments for victims of the Holocaust and heirs of victims
302.56(422)	Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions
302.57(422)	Installment sales by taxpayers using the accrual method of accounting
302.58(422)	Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States
302.59	Reserved
302.60(422)	Additional first-year depreciation allowance
302.61(422)	Exclusion of active duty pay of national guard members and armed forces military reserve members for service under orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn
302.62(422)	Deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve
302.63(422)	Exclusion of income from military student loan repayments

302.64(422)	Exclusion of death gratuity payable to an eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces who has died while on active duty
302.65(422)	Section 179 expensing
302.66(422)	Deduction for certain unreimbursed expenses relating to a human organ transplant
302.67(422)	Deduction for alternative motor vehicles
302.68(422)	Injured veterans grant program
302.69(422)	Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
302.70(422)	Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects
302.71(422)	Exclusion for certain victim compensation payments
302.72(422)	Exclusion of Vietnam Conflict veterans bonus
302.73(422)	Exclusion for health care benefits of nonqualified tax dependents
302.74(422)	Exclusion for AmeriCorps Segal Education Award
302.75(422)	Exclusion of certain amounts received from Iowa veterans trust fund
302.76(422)	Exemption of active duty pay for armed forces, armed forces military reserve, or the national guard
302.77(422)	Exclusion of biodiesel production refund
302.78(422)	Allowance of certain deductions for 2008 tax year
302.79(422)	Special filing provisions related to 2010 tax changes
302.80(422)	Exemption for military retirement pay
302.81(422)	Iowa ABLE savings plan trust
302.82(422,541B)	First-time homebuyer savings accounts
302.83(422)	Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020
302.84(422)	Broadband infrastructure grant exemption
302.85(422)	Interest expense deduction adjustments
302.86(422)	COVID-19 grant exclusion
302.87(422)	Capital gain deduction for certain types of net capital gains
302.88(422)	Net income from a farm tenancy agreement covering real property

CHAPTER 303

DETERMINATION OF TAXABLE INCOME

303.1(422)	Verification of deductions required
303.2(422)	Federal rulings and regulations
303.3(422)	Federal income tax deduction and federal refund
303.4(422)	Optional standard deduction
303.5(422)	Itemized deductions
303.6(422)	Itemized deductions—separate returns by spouses
303.7(422)	Itemized deductions—part-year residents
303.8(422)	Itemized deductions—nonresidents
303.9(422)	Annualizing income
303.10(422)	Income tax averaging
303.11(422)	Reduction in state itemized deductions for certain high-income taxpayers
303.12(422)	Deduction for home mortgage interest for taxpayers with mortgage interest credit
303.13(422)	Iowa income taxes and Iowa tax refund

CHAPTER 304

ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS

304.1(257,422)	School district surtax
304.2(422D)	Emergency medical services income surtax

304.3(422)	Exemption credits
304.4(422)	Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa
304.5(422)	Nonresident and part-year resident credit
304.6(422)	Out-of-state tax credits
304.7(422)	Out-of-state tax credit for minimum tax
304.8(422)	Withholding and estimated tax credits
304.9(422)	Motor fuel credit
304.10(422)	Alternative minimum tax credit for minimum tax paid in a prior tax year
304.11(15,422)	Research activities credit
304.12(422)	New jobs credit
304.13(422)	Earned income credit
304.14(15)	Investment tax credit—new jobs and income program and enterprise zone program
304.15(422)	Child and dependent care credit
304.16(422)	Franchise tax credit
304.17(15E)	Eligible housing business tax credit
304.18(422)	Assistive device tax credit
304.19(404A,422)	Historic preservation and cultural and entertainment district tax credit for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014
304.20(422)	Ethanol blended gasoline tax credit
304.21(15E)	Eligible development business investment tax credit
304.22(15E,422)	Venture capital credits
304.23(15)	New capital investment program tax credits
304.24(15E,422)	Endow Iowa tax credit
304.25(422)	Soy-based cutting tool oil tax credit
304.26(15I,422)	Wage-benefits tax credit
304.27(422,476B)	Wind energy production tax credit
304.28(422,476C)	Renewable energy tax credit
304.29(15)	High quality job creation program
304.30(15E,422)	Economic development region revolving fund tax credit
304.31(422)	Early childhood development tax credit
304.32(422)	School tuition organization tax credit
304.33(422)	E-85 gasoline promotion tax credit
304.34(422)	Biodiesel blended fuel tax credit
304.35(422)	Soy-based transformer fluid tax credit
304.36(16,422)	Agricultural assets transfer tax credit and custom farming contract tax credit
304.37(15,422)	Film qualified expenditure tax credit
304.38(15,422)	Film investment tax credit
304.39(422)	Ethanol promotion tax credit
304.40(422)	Charitable conservation contribution tax credit
304.41(15,422)	Redevelopment tax credit
304.42(15)	High quality jobs program
304.43(16,422)	Disaster recovery housing project tax credit
304.44(422)	Deduction of credits
304.45(15)	Aggregate tax credit limit for certain economic development programs
304.46(422)	E-15 plus gasoline promotion tax credit
304.47(422)	Geothermal heat pump tax credit
304.48(422)	Solar energy system tax credit
304.49(422)	Volunteer fire fighter, volunteer emergency medical services personnel member, and reserve peace officer tax credit
304.50(422)	Taxpayers trust fund tax credit
304.51(422)	From farm to food donation tax credit

304.52(422)	Adoption tax credit
304.53(15)	Workforce housing tax incentives program
304.54(404A,422)	Historic preservation and cultural and entertainment district tax credit for projects registered on or after July 1, 2014, and before August 15, 2016
304.55(404A,422)	Historic preservation and cultural and entertainment district tax credit for projects registered on or after August 15, 2016
304.56(15,422)	Renewable chemical production tax credit program
304.57(15E,422)	Hoover presidential library tax credit

CHAPTER 305

ASSESSMENTS AND REFUNDS

305.1(422)	Notice of discrepancies
305.2(422)	Notice of assessment, supplemental assessments and refund adjustments
305.3(422)	Overpayments of tax
305.4(422)	Optional designations of funds by taxpayer
305.5 to 305.7	Reserved
305.8(422)	Livestock production credit refunds for corporate taxpayers and individual taxpayers

CHAPTER 306

PENALTY AND INTEREST

306.1(422)	Penalty
306.2(422)	Computation of interest on unpaid tax
306.3(422)	Computation of interest on refunds resulting from net operating losses
306.4(422)	Computation of interest on overpayments

CHAPTER 307

WITHHOLDING

307.1(422)	Who must withhold
307.2(422)	Computation of amount withheld
307.3(422)	Forms, returns, and reports
307.4(422)	Withholding on nonresidents
307.5(422)	Penalty and interest
307.6(422)	Withholding tax credit to workforce development fund
307.7(422)	ACE training program credits from withholding
307.8(260E)	New job tax credit from withholding
307.9(15)	Supplemental new jobs credit from withholding and alternative credit for housing assistance programs
307.10(403)	Targeted jobs withholding tax credit

CHAPTER 308

ESTIMATED INCOME TAX FOR INDIVIDUALS

308.1(422)	Who must pay estimated income tax
308.2(422)	Time for filing and payment of tax
308.3(422)	Estimated tax for nonresidents
308.4(422)	Special estimated tax periods
308.5(422)	Reporting forms
308.6(422)	Penalty—underpayment of estimated tax
308.7(422)	Estimated tax carryforwards and how the carryforward amounts are affected under different circumstances

CHAPTERS 309 to 399

Reserved

TITLE V
PASS-THROUGH ENTITY INCOME TAX

CHAPTER 400
ADMINISTRATION

CHAPTER 401
PARTNERSHIPS

401.1(422)	General rule
401.2(422)	Partnership returns
401.3(422)	Contents of partnership return
401.4(422)	Distribution and taxation of partnership income

CHAPTER 402
S CORPORATIONS

CHAPTER 403
APPORTIONMENT OF INCOME FOR RESIDENT
SHAREHOLDERS OF S CORPORATIONS

403.1(422)	Apportionment of income for resident shareholders of S corporations
403.2	Reserved
403.3(422)	Distributions
403.4(422)	Computation of net S corporation income
403.5(422)	Computation of federal tax on S corporation income
403.6(422)	Income allocable to Iowa
403.7(422)	Credit for taxes paid to another state
403.8 and 403.9	Reserved
403.10(422)	Example for tax periods beginning on or after January 1, 2002

CHAPTER 404
COMPOSITE RETURNS FOR TAX YEARS BEGINNING PRIOR TO JANUARY 1, 2022

404.1(422)	Composite returns
404.2(422)	Definitions
404.3(422)	Filing requirements
404.4	Reserved
404.5(422)	Composite return required by director
404.6(422)	Determination of composite Iowa income
404.7(422)	Determination of composite Iowa tax
404.8(422)	Estimated tax
404.9(422)	Time and place for filing
404.10(422)	Repeal—transition rule

CHAPTER 405
COMPOSITE RETURNS FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2022

405.1(422)	Composite returns
405.2(422)	Definitions
405.3(422)	Filing and payment for pass-through entities
405.4(422)	Nonresident member determination
405.5(422)	Exceptions to the composite return requirement
405.6(422)	Election out of the composite return tax requirement
405.7(422)	Determination of composite return tax
405.8(422)	Filing for nonresident members—composite tax credits
405.9(422)	Composite returns for nonresidents who are not members of a pass-through entity

CHAPTERS 406 to 499
Reserved

TITLE VI
CORPORATION INCOME TAX

CHAPTER 500
ADMINISTRATION

500.1(422)	Definitions
500.2(422)	Statutes of limitation
500.3(422)	Retention of records
500.4(422)	Cancellation of authority to do business
500.5(422)	Authority for deductions
500.6(422)	Jeopardy assessments
500.7(422)	Information confidential
500.8	Reserved
500.9(422)	Delegation of authority to audit and examine
500.10(422)	Corporate income tax rate adjustments

CHAPTER 501
FILING RETURNS, PAYMENT OF TAX,
PENALTY AND INTEREST, AND TAX CREDITS

501.1(422)	Who must file
501.2(422)	Time and place for filing return
501.3(422)	Form for filing
501.4(422)	Payment of tax
501.5(422)	Minimum tax
501.6(422)	Motor fuel credit
501.7(422)	Research activities credit
501.8(422)	New jobs credit
501.9	Reserved
501.10(15)	New jobs and income program tax credits
501.11(422)	Refunds and overpayments
501.12(422)	Deduction of credits
501.13(422)	Livestock production credits
501.14(15E)	Enterprise zone tax credits
501.15(15E)	Eligible housing business tax credit
501.16(422)	Franchise tax credit
501.17(422)	Assistive device tax credit
501.18(404A,422)	Historic preservation and cultural and entertainment district tax credit for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014
501.19(422)	Ethanol blended gasoline tax credit
501.20(15E)	Eligible development business investment tax credit
501.21(15E,422)	Venture capital credits
501.22(15)	New capital investment program tax credits
501.23(15E,422)	Endow Iowa tax credit
501.24(422)	Soy-based cutting tool oil tax credit
501.25(15I,422)	Wage-benefits tax credit
501.26(422,476B)	Wind energy production tax credit
501.27(422,476C)	Renewable energy tax credit
501.28(15)	High quality job creation program
501.29(15E,422)	Economic development region revolving fund tax credit
501.30(422)	E-85 gasoline promotion tax credit

501.31(422)	Biodiesel blended fuel tax credit
501.32(422)	Soy-based transformer fluid tax credit
501.33(16,422)	Agricultural assets transfer tax credit and custom farming contract tax credit
501.34(15,422)	Film qualified expenditure tax credit
501.35(15,422)	Film investment tax credit
501.36(422)	Ethanol promotion tax credit
501.37(422)	Charitable conservation contribution tax credit
501.38(422)	School tuition organization tax credit
501.39(15,422)	Redevelopment tax credit
501.40(15)	High quality jobs program
501.41(15)	Aggregate tax credit limit for certain economic development programs
501.42(16,422)	Disaster recovery housing project tax credit
501.43(422)	E-15 plus gasoline promotion tax credit
501.44(422)	Solar energy system tax credit
501.45(422)	From farm to food donation tax credit
501.46(15)	Workforce housing tax incentives program
501.47(404A,422)	Historic preservation and cultural and entertainment district tax credit for projects registered on or after July 1, 2014, and before August 15, 2016
501.48(404A,422)	Historic preservation and cultural and entertainment district tax credit for projects registered on or after August 15, 2016
501.49(15,422)	Renewable chemical production tax credit program
501.50(15E,422)	Hoover presidential library tax credit

CHAPTER 502

DETERMINATION OF NET INCOME

502.1(422)	Computation of net income for corporations
502.2(422)	Net operating loss carrybacks and carryovers
502.3(422)	Capital loss carryback
502.4(422)	Net operating and capital loss carrybacks and carryovers
502.5(422)	Interest and dividends from federal securities
502.6(422)	Interest and dividends from foreign securities, and securities of state and their political subdivisions
502.7(422)	Safe harbor leases
502.8(422)	Additions to federal taxable income
502.9(422)	Gains and losses on property acquired before January 1, 1934
502.10(422)	Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
502.11(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
502.12(422)	Federal income tax deduction
502.13(422)	Iowa income taxes and Iowa tax refund
502.14(422)	Method of accounting, accounting period
502.15(422)	Consolidated returns
502.16(422)	Federal rulings and regulations
502.17(422)	Depreciation of speculative shell buildings
502.18(422)	Deduction of multipurpose vehicle registration fee
502.19(422)	Deduction of foreign dividends
502.20(422)	Employer social security credit for tips
502.21(422)	Deductions related to the Iowa educational savings plan trust
502.22(422)	Additional first-year depreciation allowance
502.23(422)	Section 179 expensing
502.24(422)	Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain

- 502.25(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television, or video projects
- 502.26(422) Exclusion of biodiesel production refund
- 502.27(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020
- 502.28(422) Broadband infrastructure grant exemption
- 502.29(422) Interest expense deduction adjustments
- 502.30(422) COVID-19 grant exclusion

CHAPTER 503

ALLOCATION AND APPORTIONMENT

- 503.1(422) Basis of corporate tax
- 503.2(422) Allocation or apportionment of investment income
- 503.3(422) Application of related expense to allocable interest, dividends, rents and royalties—tax periods beginning on or after January 1, 1978
- 503.4(422) Net gains and losses from the sale of assets
- 503.5(422) Where income is derived from the manufacture or sale of tangible personal property
- 503.6(422) Apportionment of income derived from business other than the manufacture or sale of tangible personal property
- 503.7(422) Apportionment of income of transportation, communications, and certain public utilities corporations
- 503.8(422) Apportionment of income derived from more than one business activity carried on within a single corporate structure
- 503.9(422) Allocation and apportionment of income in special cases

CHAPTER 504

ASSESSMENTS, REFUNDS, APPEALS

- 504.1(422) Notice of discrepancies
- 504.2(422) Notice of assessment
- 504.3(422) Refund of overpaid tax

CHAPTER 505

ESTIMATED TAX FOR CORPORATIONS

- 505.1(422) Who must pay estimated tax
- 505.2(422) Time for filing and payment of tax
- 505.3(422) Special estimate periods
- 505.4(422) Reporting forms
- 505.5(422) Penalties
- 505.6(422) Overpayment of estimated tax

CHAPTERS 506 to 599

Reserved

TITLE VII
FRANCHISE TAX

CHAPTER 600

ADMINISTRATION

- 600.1(422) Definitions
- 600.2(422) Statutes of limitation
- 600.3(422) Retention of records
- 600.4(422) Authority for deductions
- 600.5(422) Jeopardy assessments
- 600.6(422) Information deemed confidential

600.7 Reserved
 600.8(422) Delegation to audit and examine

CHAPTER 601
 FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST,
 AND TAX CREDITS

601.1(422) Who must file
 601.2(422) Time and place for filing return
 601.3(422) Form for filing
 601.4(422) Payment of tax
 601.5(422) Minimum tax
 601.6(422) Refunds and overpayments
 601.7(422) Allocation of franchise tax revenues
 601.8(15E) Eligible housing business tax credit
 601.9(15E) Eligible development business investment tax credit
 601.10(404A,422) Historic preservation and cultural and entertainment district tax credit
 601.11(15E,422) Venture capital credits
 601.12(15) New capital investment program tax credits
 601.13(15E,422) Endow Iowa tax credit
 601.14(15I,422) Wage-benefits tax credit
 601.15(422,476B) Wind energy production tax credit
 601.16(422,476C) Renewable energy tax credit
 601.17(15) High quality job creation program
 601.18(15E,422) Economic development region revolving fund tax credit
 601.19(15,422) Film qualified expenditure tax credit
 601.20(15,422) Film investment tax credit
 601.21(15) High quality jobs program
 601.22(422) Solar energy system tax credit
 601.23(15) Workforce housing tax incentives program
 601.24(422) Deduction of credits
 601.25(15E,422) Hoover presidential library tax credit

CHAPTER 602
 DETERMINATION OF NET INCOME

602.1(422) Computation of net income for financial institutions
 602.2(422) Net operating loss carrybacks and carryovers
 602.3(422) Capital loss carryback
 602.4(422) Net operating and capital loss carrybacks and carryovers
 602.5(422) Interest and dividends from federal securities
 602.6(422) Interest and dividends from foreign securities and securities of states and other political subdivisions
 602.7(422) Safe harbor leases
 602.8(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
 602.9(422) Work opportunity tax credit
 602.10(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020
 602.11(422) Gains and losses on property acquired before January 1, 1934
 602.12(422) Federal income tax deduction
 602.13(422) Iowa franchise taxes
 602.14(422) Method of accounting, accounting period
 602.15(422) Consolidated returns

602.16(422)	Federal rulings and regulations
602.17(15E,422)	Charitable contributions relating to the endow Iowa tax credit
602.18(422)	Depreciation of speculative shell buildings
602.19(422)	Deduction of multipurpose vehicle registration fee
602.20(422)	Disallowance of expenses to carry an investment subsidiary for tax years which begin on or after January 1, 1995
602.21(422)	S corporation and limited liability company financial institutions
602.22(422)	Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
602.23(422)	Additional first-year depreciation allowance
602.24(422)	Section 179 expensing

ALLOCATION AND APPORTIONMENT

602.25(422)	Basis of franchise tax
602.26(422)	Allocation and apportionment
602.27(422)	Net gains and losses from the sale of assets
602.28(422)	Apportionment factor
602.29(422)	Allocation and apportionment of income in special cases
602.30(422)	Broadband infrastructure grant exemption
602.31(422)	Interest expense deduction adjustments
602.32(422)	COVID-19 grant exclusion

CHAPTER 603

ASSESSMENTS, REFUNDS, APPEALS

603.1(422)	Notice of discrepancies
603.2(422)	Notice of assessment
603.3(422)	Refund of overpaid tax

CHAPTER 604

ESTIMATED TAX FOR FINANCIAL INSTITUTIONS

604.1(422)	Who must pay estimated tax
604.2(422)	Time for filing and payment of tax
604.3(422)	Special estimate periods
604.4(422)	Reporting forms
604.5(422)	Penalties
604.6(422)	Overpayment of estimated tax

CHAPTERS 605 to 699

Reserved

TITLE VIII

FIDUCIARY INCOME TAX

CHAPTER 700

FIDUCIARY INCOME TAX

700.1(422)	Administration
700.2(422)	Confidentiality
700.3(422)	Situs of trusts
700.4(422)	Fiduciary returns and payment of the tax
700.5(422)	Extension of time to file
700.6(422)	Penalties
700.7(422)	Interest or refunds on net operating loss carrybacks
700.8(422)	Reportable income and deductions
700.9(422)	Audits, assessments and refunds

700.10(422) The income tax certificate of acquittance
 700.11(422) Appeals to the director

CHAPTERS 701 to 799

Reserved

TITLE IX
TAX CREDITS

CHAPTER 800
 TAX CREDITS

CHAPTERS 801 to 899

Reserved

TITLE X
INHERITANCE TAX

CHAPTER 900
 INHERITANCE TAX

900.1(450) Administration
 900.2(450) Inheritance tax returns and payment of tax
 900.3(450) Audits, assessments and refunds
 900.4 Reserved
 900.5(450) Gross estate
 900.6(450) The net estate
 900.7(450) Life estate, remainder and annuity tables—in general
 900.8(450B) Special use valuation
 900.9(450) Market value in the ordinary course of trade
 900.10(450) Alternate valuation date
 900.11(450) Valuation—special problem areas
 900.12(450) The inheritance tax clearance
 900.13(450) No lien on the surviving spouse's share of the estate
 900.14(450) Computation of shares
 900.15(450) Applicability

CHAPTER 901
 IOWA ESTATE TAX

901.1(451) Administration
 901.2(451) Confidential and nonconfidential information
 901.3(451) Tax imposed, tax returns, and tax due
 901.4(451) Audits, assessments and refunds
 901.5(451) Appeals
 901.6(451) Applicable rules

CHAPTER 902
 GENERATION SKIPPING TRANSFER TAX

902.1(450A) Administration
 902.2(450A) Confidential and nonconfidential information
 902.3(450A) Tax imposed, tax due and tax returns
 902.4(450A) Audits, assessments and refunds
 902.5(450A) Appeals
 902.6(450A) Generation skipping transfers prior to Public Law 99-514
 902.7(421) Applicability

CHAPTER 19

SETTLEMENTS—COMPROMISES AND ABATEMENTS OF TAX, PENALTY, OR INTEREST

701—19.1(421) Settlements. Pursuant to Iowa Code section 421.5, in addition to the authority granted to the department pursuant to Iowa Code section 17A.10 and notwithstanding Iowa Code section 7D.9, the department may, in its sole discretion, settle any taxes, penalties, or interest. A settlement may be a compromise or full abatement of any amount in dispute.

[ARC 7192C, IAB 12/13/23, effective 1/17/24]

701—19.2(421) Amounts qualifying for settlement. To be eligible for settlement under Iowa Code section 421.5, the amount must be of doubtful liability or doubtful collectability or must cause severe economic hardship, or the settlement of the amount must promote effective tax administration. The decision whether to accept a settlement amount will be based on a taxpayer's facts and circumstances; verifiable documentation is required for all grounds.

19.2(1) Doubtful collectability. Doubt as to collectability may exist in any case where the taxpayer's assets and discretionary income may not satisfy the full amount of the liability after satisfying senior priority liabilities. An offer to settle based on doubt as to collectability may be considered acceptable if it is unlikely that the tax, penalty, and interest can be collected in full and the offer reasonably reflects the amount the department could collect through other means, including administrative and judicial collection remedies. This amount is the reasonable collection potential of a case. In determining the reasonable collection potential of a case, the department will take into account the taxpayer's verifiable reasonable basic living expenses. In some cases, the department may accept an offer of less than the reasonable collection potential of a case if there are special circumstances.

19.2(2) Severe economic hardship. The department may settle where it determines that, although collection in full could be achieved, collection of the full amount would cause the taxpayer severe economic hardship. Severe economic hardship is defined as the inability to pay reasonable basic living expenses. An offer to settle based on economic hardship may be considered acceptable when, even though the tax, penalty, and interest could be collected in full, the amount offered reflects the amount the department can collect without causing the taxpayer severe economic hardship.

19.2(3) Doubtful liability. A doubtful liability may exist where there is a significant doubt as to the existence or amount of the correct tax liability under the law. A doubtful liability does not exist where the liability has been established by a final court judgment or administrative ruling or final order of the department concerning the existence or amount of the liability. An offer to settle a doubtful liability may be considered acceptable if it reasonably reflects the likelihood the department could expect to collect through litigation. This analysis may include consideration of the hazards and costs of litigation that would be involved if the liability were litigated. The evaluation of the hazards and costs of litigation is not an exact science and is within the discretion of the department.

19.2(4) Promote effective tax administration. The department may settle to promote effective tax administration where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for settling the liability that is equitable under the particular facts and circumstances of the case. Settlements pursuant to this subrule may be justified only where, due to exceptional circumstances, collection of the full liability may undermine public confidence that the tax laws are being administered in a fair and equitable manner. The taxpayer will be expected to demonstrate circumstances that justify settlement even though a similarly situated taxpayer may have paid the liability in full. The department may settle cases where doing so will promote voluntary compliance with the law. The department may decline a settlement for reasons promoting effective tax administration if the settlement of the liability would undermine compliance by taxpayers with the tax laws.

[ARC 7192C, IAB 12/13/23, effective 1/17/24]

701—19.3(421) Settlement procedures and limitations, generally.

19.3(1) Whether to seek a settlement. When determining whether to seek a settlement, a taxpayer should first consider whether a settlement is necessary. Nothing in this chapter is intended to preclude a

taxpayer who misses the time provided by law to appeal a notice of assessment from paying the amount due, filing a refund claim, and contesting any denial of that refund claim as described in Iowa Code section 421.60(2) “h.” If a taxpayer has not received a billing but has information that would adjust the liability down, the appropriate remedy is to file an amended return within the statute of limitations. If a taxpayer has received an estimated assessment and is within three years of when the assessment was issued, the taxpayer should file a return. If a taxpayer has received an assessment and is within the time period to file an appeal, it is proper to file an appeal rather than a settlement request. If a taxpayer does not dispute the liability, but is unable to pay the liability due to financial hardship, the taxpayer should submit an offer in compromise application.

19.3(2) *Which type of settlement to seek.* Different types of settlements require different forms and procedures. Procedures for abatement, offer in compromise, and voluntary disclosure agreements are described in specific rules below. For matters currently under appeal pursuant to 701—Chapter 7, settlement requests must be submitted to the appeals section of the legal services and appeals division in accordance with 701—subrule 7.11(5). For matters currently under audit, settlement requests must be submitted to the department employee assigned to the audit.

19.3(3) *Who may authorize a department settlement.* Only the director, the deputy director, or the division administrator of the legal services and appeals division may approve and sign settlements under this chapter unless otherwise specified in rule or designated by the director.

19.3(4) *Discretionary nature of settlements.* There is no right to appeal an abatement denial, offer in compromise denial, or other settlement decision by the department under 701—Chapter 7. As described in Iowa Code section 421.5, a taxpayer shall not have the right to a settlement of any tax, penalty, or interest liability under this chapter or Iowa Code section 421.5. Any determination shall be discretionary and shall be final and conclusive except in the case of fraud or mutual mistake of material fact or as otherwise stated in a written settlement agreement between the taxpayer and the department.

[ARC 7192C, IAB 12/13/23, effective 1/17/24]

701—19.4(421) Applications for abatement.

19.4(1) *When to file.* Abatement is intended to be a possible remedy for taxpayers who have received a billing or refund denial letter and have information that could lead to a reduction in the liability, but failed to file a timely appeal. Grounds for abatement include doubt as to liability and promoting effective tax administration.

19.4(2) *How to file an application.* To apply, a taxpayer must submit an application for abatement in the department’s prescribed paper or electronic format. The application can be submitted through GovConnectIowa or by using the form available on the department’s website and following the submission instructions on the form.

19.4(3) *Required information.* A request for abatement must be submitted on the department’s form. The form must be fully completed and properly signed.

19.4(4) *Review of requests.*

a. After the application has been submitted, it will be reviewed by department staff.

b. Additional information may be requested to assist the department in its review.

c. A letter will be issued to the applicant notifying the applicant of the decision to grant, deny or partially grant the abatement request. The department’s decision on an abatement application will only be contained in a formal determination letter.

d. Applicants whose applications are granted in part will receive an agreement describing the terms of the partially granted abatement request and must sign and return that agreement to the department in order to receive the partially granted abatement.

e. Decisions to accept an abatement request in full or in part for doubt as to liability may be approved by the bureau chief of the compliance section of the tax management division or another staff member designated by the director.

f. Decisions to accept an abatement request to promote effective tax administration may only be approved by the director, the deputy director, or the division administrator of the legal services and appeals division.

19.4(5) Limitations. The department will accept applications for abatement during the appeal period but will not review such applications until the appeal period has passed. The department will generally not refund amounts already paid in response to an application for abatement. Some exceptions may include the following circumstances:

a. The application is received within three years after the return related to the application for abatement was due or within one year after the payment related to the application for abatement was made, whichever is later.

b. The application is received within one year of the final determination date of any final federal adjustment arising from an internal revenue service audit or other similar action by the internal revenue service with respect to the particular tax year at issue in the application.

c. Payments were received in violation of Title 11 of the United States Code.

d. Exceptional circumstances demonstrate that a refund would promote effective tax administration as described in subrule 19.2(4).

[ARC 7192C, IAB 12/13/23, effective 1/17/24; Editorial change: IAC Supplement 4/17/24]

701—19.5(421) Offers in compromise.

19.5(1) When to file. An offer in compromise packet should be used to apply for relief based on doubtful collectability or severe economic hardship.

19.5(2) How to submit a packet. To apply, a taxpayer must submit an offer in compromise packet in the department's prescribed paper or electronic format. An offer in compromise packet can be submitted through GovConnectIowa or by using the form available on the department's website and following the submission instructions on the form.

19.5(3) Required information. An offer in compromise must be submitted using the department's offer in compromise packet.

19.5(4) Review of requests.

a. After the packet has been submitted, it will be reviewed by department staff.

b. Additional information may be requested to assist the department in its review.

c. A letter will be issued to the applicant notifying the applicant of the decision to grant, deny or partially grant the offer in compromise request. The department's decision on an offer in compromise request will only be contained in a formal determination letter.

d. Applicants whose applications are granted in part will receive an agreement describing the terms of the partially granted offer in compromise request and must sign and return that agreement to the department in order to receive the partially granted offer in compromise.

e. Decisions to enter into an offer in compromise must be approved by the bureau chief of the central collections unit, the director, the deputy director, the division administrator of the legal services and appeals division, or another staff member designated by the director.

19.5(5) Limitations. The department will not review offer in compromise applications until a liability is at least one year old. Premature applications will be denied. Denial on this basis does not prevent the taxpayer from reapplying at a later date.

[ARC 7192C, IAB 12/13/23, effective 1/17/24]

701—19.6(421) Voluntary disclosure agreements.

19.6(1) When to file. Any person who is subject to Iowa tax or tax collection responsibilities may be eligible for the voluntary disclosure program. Being subject to Iowa tax may occur when a person has Iowa source income, business activities, or representatives or other presence in Iowa. Certain activities by such persons may create Iowa tax return filing requirements for Iowa source income. In addition, activities may also result in tax liabilities that are past due and owing.

19.6(2) Purpose of the voluntary disclosure program. The purpose of the voluntary disclosure program is to promote effective tax administration through voluntary compliance by encouraging

unregistered business entities and persons to voluntarily contact the department regarding unreported Iowa source income or other Iowa taxes described in subrule 19.6(4).

19.6(3) *Anonymity.* A person or the person's representative may initially contact the department on an anonymous basis. Anonymity of the taxpayer can be maintained until the voluntary disclosure agreement is executed by the taxpayer and the department. The voluntary disclosure program may be used by the department and the taxpayer to report previous periods of Iowa source income and to settle outstanding tax, penalty and interest liabilities, but it must also ensure future tax compliance by the taxpayer.

19.6(4) *Type of taxes eligible.* Only taxes, penalties, and interest related to the following tax types are eligible for settlement under the voluntary disclosure program: corporate income tax, franchise tax, fiduciary income tax, withholding income tax, individual income tax, composite return tax, local option school district income surtax, state sales tax, state use tax, fuel taxes, cigarette and tobacco taxes, local option tax, state and local hotel and motel taxes, automobile rental excise tax, equipment excise tax, water service excise tax, and the prepaid wireless 911 surcharge.

19.6(5) *Eligibility of the taxpayer.* The department has discretion to determine who is eligible for participation in the voluntary disclosure program. In making the determination, the department may consider the following factors:

- a. The person must be subject to Iowa tax on Iowa source income or have Iowa tax collection responsibilities;
- b. The person must have tax due;
- c. The person must not currently be under audit or examination by the department or under criminal investigation by the department;
- d. The person must not have had any prior contact with the department or a representative of the department that could lead to audit or assessment associated with the tax types or tax periods sought to be addressed under the program;
- e. The type and extent of activities resulting in Iowa source income;
- f. Failure to report the Iowa source income or pay any liability was not due to fraud, intentional misrepresentation, an intent to evade tax, or willful disregard of Iowa tax laws; and
- g. Any other factors which are relevant to the particular situation.

19.6(6) *How to file an application.*

a. *Required format.* To apply, a taxpayer must submit an application in the department's prescribed paper or electronic format. A voluntary disclosure application can be submitted through GovConnectIowa or by using the form available on the department's website and following the submission instructions on the form.

b. *Required information.* A voluntary disclosure application must be submitted using the department's form.

c. *Review of the application.*

- (1) After the application is submitted, it will be reviewed by department staff.
- (2) Additional information may be requested to assist the department in its review.
- (3) The department will notify an applicant in writing regarding whether the applicant's application for participation in the program is accepted or rejected.

19.6(7) *Terms of the voluntary disclosure agreement.*

a. *Discretion.* The department has the discretion to settle any outstanding Iowa tax, penalty, and interest liabilities of the eligible applicant. Settlement terms are on a case-by-case basis. Items considered by the department in determining the settlement terms include: the type of tax, the tax periods at issue, the reason for noncompliance, whether the tax is deemed to be held in trust for the state of Iowa, the types of activities resulting in the tax, the frequency of the activities that resulted in the tax, and any other matters which are relevant to the particular situation.

b. *Maximum scope of audit.* If a taxpayer initiates the contact with the department and is eligible for the voluntary disclosure program and complies with the agreement terms, the maximum prior years for which the department will generally audit and pursue settlement and collection will be five years, absent an intent to defraud, the making of material misrepresentations of fact, or an intent to evade tax.

c. Future filing requirements. All voluntary disclosure agreements must require that the applicant file future Iowa tax returns, unless the activity by the applicant resulting in the Iowa source income has changed or there has been a change in the law, rules, or court cases that dictate a different result.

d. Audit and assessment rights. The department reserves the right to audit all returns and other documents submitted by the applicant or a third party to verify the facts and whether the terms of the voluntary disclosure agreement have been met. The department may audit information submitted by the applicant at any time within the allowed statutory limitation period. The department may also assess any tax, penalty, and interest found to be due in addition to the amount of original tax reported. The statute of limitations for assessment and statute of limitations for refunds begin to run as provided by law.

19.6(8) Commencement of the voluntary disclosure agreement. The voluntary agreement commences on the date the voluntary disclosure agreement is fully executed by all parties or another date specified by the agreement. Execution of the agreement is complete when the agreement is executed by the taxpayer or taxpayers and the bureau chief of the compliance section of the tax management division or another staff member designated by the director. Prior to the execution of the voluntary disclosure agreement by the taxpayer and the department, the taxpayer is not protected from the department's regular audit process if the identity of the taxpayer, as an applicant, is unknown to the department. However, if the department has knowledge of the taxpayer's identity, as an applicant, the department will not take audit action against the taxpayer during the voluntary disclosure process. If a voluntary disclosure agreement is not reached, the department may assess tax, penalty, and interest as provided by law at the time the identity of the applicant becomes known to the department.

19.6(9) Voiding a voluntary disclosure agreement.

a. Authority. The department has the authority to declare a voluntary disclosure agreement null and void subsequent to the execution of the agreement. The department may void the contractual agreement if the department determines that a misrepresentation of a material fact was made by the person or a third party representing the person to the department. The department may also void a voluntary disclosure agreement if the department determines any of the following has occurred:

- (1) The person does not submit information requested by the department within the time period specified by the department, including any extensions granted by the department;
- (2) The person fails to file future Iowa returns as agreed to in the voluntary disclosure agreement;
- (3) The person does not pay the agreed settlement liability within the time period designated by the department, including any extensions of time that may be granted by the department;
- (4) The person does not remit all taxes imposed upon or collected by the person for all subsequent tax periods and all tax types that are subject to the voluntary disclosure agreement;
- (5) The person fails to prospectively comply with Iowa tax law. Whether the person has failed to prospectively comply with Iowa tax law is determined by the department on a case-by-case basis;
- (6) The person, based on a determination by the department, materially understates the person's tax liability; or
- (7) The person has made a material breach of the terms of the voluntary disclosure agreement.

b. Audit rights. Voiding of the agreement results in nonenforceability of the agreement by the applicant and allows the department to proceed to assess tax, penalty, and interest for that person's Iowa tax and tax collection responsibilities for all periods within the statute of limitations. If the applicant is justifiably rejected for the voluntary disclosure program or the agreement between the person and the department is declared by the department to be null and void, the department reserves the right to audit all returns or other documents submitted by the applicant or a third party on behalf of the applicant and to make an assessment for all tax, penalty, and interest owed. If the voluntary disclosure agreement is voided or the application for the program is rejected and the department issues an assessment, the taxpayer may appeal the assessment pursuant to 701—Chapter 7. If the department does not issue an assessment, but does reject the application or voids the agreement, such action is not subject to appeal under 701—Chapter 7 but is considered to be "other agency action."

19.6(10) Partnerships, partners, S corporations, shareholders in S corporations, trusts, and trust beneficiaries. Once the department has initiated an audit or investigation of any type of partnership, partners of the partnership, S corporations, a shareholder in an S corporation, a trust, or trust beneficiaries,

the department is deemed to have initiated an audit or investigation of the entity and of all those who receive Iowa source income from or have an interest in such an entity for purposes of eligibility for participation in the voluntary disclosure program.

19.6(11) *Transfer or assignment.* The terms of the voluntary disclosure agreement are valid and enforceable by and against all parties, including their transferees and assignees.

[ARC 7192C, IAB 12/13/23, effective 1/17/24]

These rules are intended to implement Iowa Code sections 421.5 and 421.17.

[Filed ARC 7192C (Notice ARC 7101C, IAB 10/18/23), IAB 12/13/23, effective 1/17/24]

[Editorial change: IAC Supplement 4/17/24]

CHAPTER 20
FILING AND EXTENSION OF TAX LIENS
AND CHARGING OFF UNCOLLECTIBLE TAX ACCOUNTS

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 9]

701—20.1(422,423) Definitions. As used in the rules contained herein, the following definitions apply unless the context otherwise requires:

“*Assessment issued*” means the same as defined in Iowa Code section 422.26(10).

“*Charge off*” means moving an unpaid account to inactive status. “Charge off” does not mean the account is deleted from the department’s records or that the account is not due and owed. Charge off does not prevent the department from recovering all or part of the account through actions including but not limited to bankruptcy, probate, or setoff or through voluntary payment.

“*Department*” means the Iowa department of revenue.

“*Director*” means the director of the department or the director’s authorized representative.

“*Lien*” means the legal right or interest against personal or real property provided by Iowa Code section 422.26 or other Iowa Code sections making reference to Iowa Code section 422.26.

“*Recorder*” means the county recorder of any county in the state of Iowa.

“*Taxes*” means all taxes or charges administered by the department and any tax or charge to which Iowa Code section 422.26 applies.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—20.2(422,423) Place of filing.

20.2(1) A notice of lien may be filed in the office of the recorder in any county.

20.2(2) The director may charge off any account before the lien has lapsed if the taxpayer meets one or more of the following criteria:

a. The taxpayer is deceased, and there are no assets in the estate or there are no assets available for the payment of taxes under Iowa Code section 633.425.

b. The taxpayer is a corporation that has dissolved or ceased to exist with no assets remaining.

c. The taxpayer is retired because of age or total disability (as described in rule 701—104.12(425)) with income and assets such that it would cause the taxpayer undue financial hardship if the department enforced collection of past due taxes. The director may require other evidence to determine when collection of tax would be a hardship on a taxpayer.

d. The taxpayer has unpaid tax amounting to less than \$50.

e. The taxpayer cannot be found, after diligent inquiry, and has no property upon which the lien can attach.

f. The taxpayer is insolvent with no property, real or personal, upon which the lien can attach.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—20.3(422,423) Fees.

20.3(1) Pursuant to Iowa Code sections 422.26(1) and 331.604, a fee of \$20 will be added to the unpaid liability of the taxpayer at the time the lien is filed. If two or more pages are required for the lien, an additional fee of \$5 per page will be added to the unpaid liability of the taxpayer.

20.3(2) Reserved.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 422.26.

[Filed 11/10/77, Notice 10/5/77—published 11/30/77, effective 1/4/78]

[Filed 2/1/80, Notice 12/26/79—published 2/20/80, effective 3/26/80]

[Filed 6/5/81, Notice 4/29/81—published 6/24/81, effective 7/29/81]

[Filed 12/31/81, Notice 11/25/81—published 1/20/82, effective 2/24/82]

[Filed 1/29/82, Notice 12/23/81—published 2/17/82, effective 3/24/82]

[Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 2/17/89, Notice 1/11/89—published 3/8/89, effective 4/12/89]

[Filed without Notice 6/12/89—published 6/28/89, effective 8/2/89]

[Filed 9/13/90, Notice 8/8/90—published 10/3/90, effective 11/7/90]

[Editorial change: IAC Supplement 11/2/22]

[Editorial change: IAC Supplement 10/18/23]

[Filed ARC 7835C (Notice ARC 7181C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 21
FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS
[Prior to 11/2/22, see Revenue Department[701] Ch 150]

701—21.1(421,26USC6402) Definitions. The following definitions are applicable to the federal offset program:

“*Assessment*” means the determination of a past due tax obligation and includes self-assessments. An assessment includes the Iowa income tax, interest, penalties, fees or other charges associated with the past due legally enforceable Iowa income tax obligation.

“*Department*,” “*state of Iowa*,” “*Iowa*” or “*the state*” means the Iowa department of revenue.

“*Director*” means the director of the Iowa department of revenue or the director’s authorized representative.

“*Overpayment*” means a federal tax refund due and owing to a person or persons.

“*Past due legally enforceable Iowa income tax obligation*” means a debt defined in 26 U.S.C. 6402(e)(5).

“*Resident of Iowa*” means any person with a federal overpayment for the year in which Iowa seeks offset and such person has an Iowa address listed on that person’s federal return for the tax period of overpayment.

“*Secretary*” means the Secretary of the Treasury for the federal government.

“*State income tax obligation*” or “*Iowa income tax obligation*” is intended to cover all Iowa income taxes. This term includes all local income taxes administered by the Iowa department of revenue or determined to be a “state income tax” under Iowa law. Such taxes may include but are not limited to individual income tax, income surtax, fiduciary income tax, withholding tax, or corporate income tax, and penalties, interest, fines, judgments, or court costs relating to such tax obligations.

“*Tax refund offset*” means withholding or reducing, in whole or in part, a federal tax refund payment by an amount necessary to satisfy a past due legally enforceable state income tax obligation owed by the payee (taxpayer) of the tax refund payment. This chapter only involves the offset of tax refund payments under 26 U.S.C. 6402(e); it does not cover the offset of federal payments other than tax refund payments for the collection of past due legally enforceable state income tax obligations.

“*Tax refund payment*” means the amount to be refunded to a taxpayer by the federal government after the Internal Revenue Service (IRS) has applied the taxpayer’s overpayment to the taxpayer’s past due tax liabilities in accordance with 26 U.S.C. 6402(a) and 26 CFR 301.6402-3(a)(6).

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—21.2(421,26USC6402) Prerequisites for requesting a federal offset. The following requirements must be met before the state can request an offset of a federal overpayment against an Iowa income tax obligation:

21.2(1) The state must have made written demand on the taxpayer to obtain payment of the state income tax obligation for which the request for offset is being submitted.

21.2(2) Pre-offset notice. At least 60 days prior to requesting the offset of a taxpayer’s federal overpayment for an Iowa income tax obligation, the state of Iowa must provide notice by certified mail, return receipt requested, to the person owing the Iowa income tax liability. This notice must include information as required by 26 U.S.C. 6402 and 31 CFR 285.8.

21.2(3) The state must consider any evidence presented by the person owing the obligation and determine whether the amount or amounts are past due and legally enforceable.

21.2(4) Additional pre-offset notices. The department must provide a taxpayer with an additional pre-offset notice if the amount of the obligation to be subject to offset is increased due to a new assessment. However, a new pre-offset notice is not required if there is an increase in the amount to be offset due to accrued interest, penalties or other charges associated with an Iowa income tax obligation in which notice has previously been given.

21.2(5) Before offset of the federal refund can be requested by the state of Iowa, the person’s Iowa income tax liability must be at least \$25, unless otherwise provided based on the discretion of the

department and the Secretary. If an individual owes more than one Iowa income tax obligation, the minimum amount will be applied to the aggregate amounts of such obligations owed to Iowa.

21.2(6) Only residents of Iowa are subject to offsets under these rules.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—21.3(421,26USC6402) Submission of evidence. A taxpayer may challenge the offset by submitting evidence that all or part of the debt is not past due or not legally enforceable or that the address shown on the taxpayer's federal return that resulted in the overpayment is not within Iowa. The challenge must be postmarked or received within 60 days of the date of the pre-offset notice in the manner described in the pre-offset notice.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—21.4(421,26USC6402) Procedure after submission of evidence. Following timely receipt of evidence by the department from the taxpayer, the department will notify the taxpayer in writing whether the evidence submitted is sufficient to terminate the intended offset. If the department determines that the evidence is sufficient, the procedure to initiate the federal offset shall be terminated for that obligation and the taxpayer's record of Iowa income tax obligation for that particular obligation shall be adjusted accordingly. However, if the department determines that the evidence is insufficient to show that the amount or amounts at issue are not, in whole or in part, a past due and legally enforceable income tax obligation, or that the address shown on the taxpayer's federal return that resulted in the overpayment is not within Iowa, the department must notify the taxpayer of the decision. The challenge of an offset under these rules is subject to judicial review under Iowa Code section 17A.19.

In cases in which a taxpayer claims immunity from state taxation due to being an enrolled member of an Indian tribe who lives on that member's reservation and derives all of that member's income from that reservation, the taxpayer may refer to 31 CFR 285.8(c)(3)(ii) for additional information.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 421 and 26 U.S.C. 6402(e) et seq.

[Filed 10/28/88, Notice 8/24/88—published 11/16/88, effective 12/21/88]

[Filed 1/5/90, Notice 11/29/89—published 1/24/90, effective 2/28/90]

[Filed 8/22/97, Notice 7/16/97—published 9/10/97, effective 10/15/97]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 3/30/00, Notice 2/23/00—published 4/19/00, effective 5/24/00]

[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]

[Editorial change: IAC Supplement 11/2/22]

[Editorial change: IAC Supplement 10/18/23]

[Filed ARC 7835C (Notice ARC 7181C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 22
COLLECTION OF DEBTS OWED THE STATE
OF IOWA OR A STATE AGENCY
[Prior to 11/2/22, see Revenue Department[701] Ch 151]

701—22.1(421) Definitions. For purposes of this chapter, the following definitions shall govern:

“*Central collections unit*” means the unit within the department charged with collecting debt for the department and other entities pursuant to Iowa Code section 421.17(27) or any other Iowa statute.

“*Debtor*” means any person having a delinquent account, charge, fee, loan, or other indebtedness due the state of Iowa or any state agency.

“*Department*” means the Iowa department of revenue.

“*Director*” means the director of revenue or the director’s authorized representative.

“*Liability*” or “*debt*” means any liquidated sum due and owing to the state of Iowa or any state agency that has accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum.

“*Person*” or “*entity*” means individual, corporation, business trust, estate, trust, partnership or association, limited liability company, or any other legal entity, but does not include a state agency.

“*State agency*” or “*agency*” includes but is not limited to entities listed in Iowa Code section 421.17(27)“a.”

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—22.2(421) Participation guidelines. The department may collect on behalf of a public agency at the department’s sole discretion. The department may require that a public agency enter into an agreement for collection with the department prior to collecting for the public agency. Agreements will be signed by the director or another staff member of the department designated by the director.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—22.3(421) Duties of the agency. A public agency seeking the use of the central collections unit shall have the following duties regarding the department and debtors.

22.3(1) Notification to the department. The public agency must provide a list of debtors to the department of revenue. This list must be in a format and type prescribed by the department and include information relevant to the identification of the debtor and the source and amount of the debt. The public agency shall terminate all collection activities once notification is given to the department.

22.3(2) Change in status of debt. A public agency that has provided liability information to the department of revenue must notify the department immediately of any change in the status of a debt. This notification shall be made no later than ten calendar days from the occurrence of the change. Change in status may come from payment of the debt or liability, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 421.17, 422.20, and 422.72.

[Filed emergency 10/22/93—published 11/10/93, effective 10/22/93]

[Filed 12/17/93, Notice 11/10/93—published 1/5/94, effective 2/9/94]

[Filed ARC 0124C (Notice ARC 0052C, IAB 3/21/12), IAB 5/16/12, effective 6/20/12]

[Editorial change: IAC Supplement 11/2/22]

[Editorial change: IAC Supplement 10/18/23]

[Filed ARC 7835C (Notice ARC 7181C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 23
DEBT COLLECTION AND SELLING OF PROPERTY
TO COLLECT DELINQUENT DEBTS
[Prior to 11/2/22, see Revenue Department[701] Ch 152]

701—23.1(421,422,626,642) Definitions.

“Delinquent debtor” means an individual, corporation, limited liability company, business trust, estate, trust, partnership, or any other legal entity that owes a delinquent liability, or unpaid taxes to the state or a liability that is collectible by the state.

“Department” means the Iowa department of revenue.

“Director” means the director of revenue or the director’s authorized representative.

“Property” means any property, including but not limited to real property, tangible property, and intangible property. “Property” includes but is not limited to a homestead.

“State” means the state of Iowa.

This rule is intended to implement Iowa Code sections 421.17 and 422.26 and chapters 626 and 642.
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—23.2(421,422,626,642) Sale of property. Property may be seized and sold to satisfy unpaid taxes, delinquent liabilities owed to the state, and liabilities collected by the state. A homestead may be sold to satisfy delinquent taxes collected under Iowa Code section 422.26 and any other similar section, with the written authorization of the director. However, a homestead will not be sold for collection of any other liability owed to or collected by the state other than taxes unless specifically authorized by statute.

This rule is intended to implement Iowa Code sections 421.17 and 422.26 and chapters 626 and 642.
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

[Filed 10/31/96, Notice 9/25/96—published 11/20/96, effective 12/25/96]

[Editorial change: IAC Supplement 11/2/22]

[Filed ARC 7835C (Notice ARC 7181C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 24
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED THE STATE OF IOWA OR
A STATE AGENCY

[Prior to 11/2/22, see Revenue Department[701] Ch 153]

701—24.1(272D) Definitions. For purposes of this chapter, the following terms shall have the same definitions as Iowa Code section 272D.1:

1. Certificate of noncompliance.
2. Liability.
3. License.
4. Licensee.
5. Licensing authority.
6. Obligor.
7. Person.
8. Unit.
9. Withdrawal of a certificate of noncompliance.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.2(272D) Notice to person of potential sanction of license. Before issuing a certificate of noncompliance, the unit must send a notice to a person in accordance with Iowa Code section 272D.3.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.3(272D) Challenges. A person may challenge the unit's issuance of a certificate of noncompliance by requesting a conference. Upon receiving a timely written request for a conference, the unit shall grant the person a stay of the issuance of a certificate of noncompliance. The stay shall remain in effect pending the decision of the unit under Iowa Code section 272D.6(1).

24.3(1) Conference. The person may request a conference with the unit to challenge the unit's issuance of a certificate of noncompliance following the mailing of the notice of potential license sanction or at any time after a licensing authority serves notice of suspension, revocation, denial of issuance, or nonrenewal of a license. The request for a conference shall be made in writing to the unit. If the conference is requested pursuant to and after the unit's mailing of a notice of potential license sanction under rule 701—24.2(272D), the request must be received by the unit within 20 days following the mailing or service of that notice.

24.3(2) Notification. The unit shall notify the person of the date, time, and location of the conference by regular mail, with the date of the conference to be no earlier than ten days following the unit's issuance of the notice of the conference. If the person fails to appear at the conference, the unit shall issue a certificate of noncompliance.

24.3(3) Location. The conference will be conducted by telephone unless otherwise indicated in the written notification by the department.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.4(272D) Issuance of certificate of noncompliance.

24.4(1) If the person fails to appear at the conference, the unit shall issue a certificate of noncompliance. If the person does not timely request a conference or pay the amount of liability owed within 20 days of the date the notice was postmarked, the unit shall issue a certificate of noncompliance.

24.4(2) However, the unit will not issue a certificate of noncompliance if:

- a. The unit finds a mistake in the identity of the person;
- b. The unit finds a mistake in determining the amount of the liability;
- c. The unit determines the amount of the liability is less than \$1,000;
- d. The obligor pays the amount due or enters into an acceptable payment plan; or
- e. The unit finds additional time is required for the person to comply.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.5(272D) Written agreements. The obligor and the unit may enter into a written agreement for payment of the liability owed pursuant to Iowa Code section 272D.5.
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.6(272D) Decision of the unit.

24.6(1) If the unit mails a notice to a person and the person requests a conference, the unit shall issue a written decision if any of the conditions in Iowa Code section 272D.6(1) exist.

24.6(2) Mailing of decision. The unit shall send a copy of the written decision as described in Iowa Code section 272D.6(2).
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.7(272D) Certificate of noncompliance to licensing authority.

24.7(1) The unit shall issue a certificate of noncompliance to any appropriate licensing authority as required by Iowa Code section 272D.7.

24.7(2) The suspension, revocation, or denial shall be effective no sooner than 30 days following the date of notice to the person.
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.8(272D) Requirements of the licensing authority. Licensing authorities shall observe the requirements and procedures of Iowa Code section 272D.8.
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—24.9(272D) District court hearing. A person may file an application for review of the decision by the unit or following issuance of notice by the licensing authority with the district court as described in Iowa Code section 272D.9. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to Iowa Code chapter 17A, and any resulting court hearing shall be an original hearing before the district court.
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 272D.2, 272D.5, and 272D.9.

[Filed 12/17/08, Notice 11/5/08—published 1/14/09, effective 2/18/09]

[Editorial change: IAC Supplement 11/2/22]

[Editorial change: IAC Supplement 10/18/23]

[Filed ARC 7835C (Notice ARC 7181C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 25
CHALLENGES TO ADMINISTRATIVE LEVIES

[Prior to 11/2/22, see Revenue Department[701] Ch 154]

701—25.1(421) Administrative levies. For purposes of this chapter, “administrative levy” means an administrative wage assignment or an administrative levy against accounts.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—25.2(421) Challenges to administrative levies. A challenge to an administrative levy against an account can only be made by an obligor or a person named on the account. Challenges may be submitted to the department via the manner described on the challenge notice furnished to the obligor by the department pursuant to Iowa Code section 421.17A(3) or 421.17B(3).

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—25.3(421) Challenge procedure. A challenge to an administrative levy will be reviewed by the central collections unit of the department. This review is not subject to the provisions of Iowa Code chapter 17A.

25.3(1) Upon receipt of a timely challenge, the central collections unit of the department will review the obligor’s account and contact the obligor. If the central collections unit of the department declines to release the levy, a telephone hearing will be scheduled.

25.3(2) When a telephone hearing is scheduled, the central collections unit of the department will send a notice to the obligor containing the hearing time.

25.3(3) The central collections unit will issue a decision in writing.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—25.4(421) Form and time of challenge. The obligor or an account holder of interest must submit a written challenge to an administrative levy within ten days of the date of the notice. Challenges must be submitted to the department in the manner described on the notice furnished by the department to the obligor or account holder of interest.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—25.5(421) Issues that may be raised. The issues raised by the challenging party, which are limited to a mistake of fact, may include but are not limited to:

1. The challenging party has the same name as the obligor but is not the obligor.
2. The challenging party does not have an interest in the account that is being seized.
3. The amount listed in the notice to the obligor is greater than the amount actually owed.
4. In cases of non-tax debt, exemptions claimed by the debtor under state or federal law.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 421.17, 421.17A, and 421.17B.

[Filed 3/8/96, Notice 1/31/96—published 3/27/96, effective 5/1/96]

[Editorial change: IAC Supplement 11/2/22]

[Filed ARC 6872C (Notice ARC 6748C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

[Filed ARC 7835C (Notice ARC 7181C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 27
SUBPOENA OF RECORDS FROM UTILITY COMPANIES
AND PUBLICATION OF NAMES OF DEBTORS

701—27.1(421) Subpoena of records from public or private utility company. The director may subpoena records of a public or private utility company to the extent permitted by Iowa Code section 421.17(32).

27.1(1) Definitions.

“*Reasonable efforts*,” for purposes of Iowa Code section 421.17(32), will be considered complete when the department has attempted to reach the individual using the individual’s last-known address as determined pursuant to 701—subrule 7.33(2).

“*Utility*” means the same as “public or private utility company” as defined in Iowa Code section 421.17(32) “*f.*”

27.1(2) Procedure for issuing a subpoena; data transfer.

a. The department shall submit the subpoena to the utility’s designated recipient on or before the date a secure data file is submitted for processing. The subpoena will include the director’s authority to make the request, the name of the file submitted for processing, the information to be provided for each individual, the expected response date, and the department’s contact information. The subpoena must be signed by the director. The data file provided to the utility by the department will include social security numbers, names, and last-known addresses in the mutually agreed-upon format.

b. Within 30 days of receiving the department’s data file, the utility will process and return the data file to the department.

27.1(3) Confidentiality. The utility must keep confidential all records received from the department. After the department has received the requested information from the utility, the utility must delete the data files the utility received in a secure manner. The department must keep confidential all records received from the utility in compliance with all applicable state and federal laws regarding individual privacy and the privacy rights of public and private utility companies.

This rule is intended to implement Iowa Code sections 421.17(32), 422.20, and 422.72.
[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—27.2(421) List for publication.

27.2(1) The director may compile and make available for publication a list of names, with last-known addresses and amounts of indebtedness owed to or being collected by the state if the indebtedness is subject to the centralized debt collection procedure established in Iowa Code section 421.17(27) and 421.17(34). The director may determine when to compile the list.

27.2(2) Names selected for release for publication shall be based on the records of the central collections unit. The director will not include the names of persons who owe less than \$100 or the threshold amounts determined by the director. The threshold amounts may vary by the debt types being collected by the central collections unit. The director may withhold names from publication if, in the director’s opinion, publication would not assist in the collection of the debt.

27.2(3) The director will not release for publication names of persons who have entered into a payment agreement with the central collections unit to pay the outstanding debt and are current in liquidating the debt based on the payment agreement. Upon entering a payment agreement with the central collections unit, the name of the party will be removed from publication within 60 days if the person is current in paying on the payment plan. This rule does not prevent the department from disclosing information under a provision of law other than Iowa Code section 421.17(27) “*i.*”

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

701—27.3(421) Release of information. The director may release the information, as the director deems necessary, as follows:

1. The director may issue an announcement describing the manner in which a copy of the list of names for publication may be obtained. The director will make the list available in an electronic medium of the director’s choice.

2. The director may release to credit reporting agencies the names selected for release for publication upon request. The names are to be released in the same electronic medium as the names are released for publication.

[ARC 7835C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 421.17.

[Filed ARC 7835C (Notice ARC 7181C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 28
DEFINITIONS

[Prior to 12/17/86, Revenue Department[730]]

Rescinded **ARC 6398C**, IAB 7/13/22, effective 7/1/22

CHAPTER 29
CERTIFICATES

[Prior to 12/17/86, Revenue Department[730]]

Rescinded **ARC 6398C**, IAB 7/13/22, effective 7/1/22

CHAPTER 30
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

[Prior to 12/17/86, Revenue Department[730]]

Rescinded **ARC 6398C**, IAB 7/13/22, effective 7/1/22

CHAPTER 31
RECEIPTS SUBJECT TO USE TAX

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 280, IAC Supplement 11/2/22

CHAPTER 32
RECEIPTS EXEMPT FROM USE TAX

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 281, IAC Supplement 11/2/22

CHAPTER 33
RECEIPTS SUBJECT TO USE TAX DEPENDING ON
METHOD OF TRANSACTION

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 282, IAC Supplement 11/2/22

CHAPTER 34
VEHICLES SUBJECT TO REGISTRATION

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 250, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTERS 35 and 36
Reserved

CHAPTER 37
UNDERGROUND STORAGE TANK RULES
INCORPORATED BY REFERENCE

Transferred to 701—Chapter 289, IAC Supplement 11/2/22

CHAPTER 38
ADMINISTRATION

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 300, IAC Supplement 11/2/22

CHAPTER 39
FILING RETURN AND PAYMENT OF TAX

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 301, IAC Supplement 11/2/22

CHAPTER 40
DETERMINATION OF NET INCOME

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 302, IAC Supplement 11/2/22

CHAPTER 41
DETERMINATION OF TAXABLE INCOME

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 303, IAC Supplement 11/2/22

CHAPTER 42
ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 304, IAC Supplement 11/2/22

CHAPTER 43
ASSESSMENTS AND REFUNDS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 305, IAC Supplement 11/2/22

CHAPTER 44
PENALTY AND INTEREST

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 306, IAC Supplement 11/2/22

CHAPTER 45
PARTNERSHIPS

[Prior to 12/17/86, Revenue Department [730]]

Transferred to 701—Chapter 401, IAC Supplement 11/2/22

CHAPTER 46
WITHHOLDING

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 307, IAC Supplement 11/2/22

CHAPTER 47
DECLARATION OF ESTIMATED INCOME TAX BY INDIVIDUALS

[Prior to 12/17/86, Revenue Department[730]]

Rescinded IAB 11/24/04, effective 12/29/04

CHAPTER 48
COMPOSITE RETURNS

Transferred to 701—Chapter 404, IAC Supplement 11/2/22

CHAPTER 49
ESTIMATED INCOME TAX FOR INDIVIDUALS

[Prior to 12/17/86, Revenue Department [730]]

Transferred to 701—Chapter 308, IAC Supplement 11/2/22

CHAPTER 50
APPORTIONMENT OF INCOME FOR RESIDENT
SHAREHOLDERS OF S CORPORATIONS

Transferred to 701—Chapter 403, IAC Supplement 11/2/22

CHAPTER 51
ADMINISTRATION

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 500, IAC Supplement 11/2/22

CHAPTER 52
FILING RETURNS, PAYMENT OF TAX,
PENALTY AND INTEREST, AND TAX CREDITS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 501, IAC Supplement 11/2/22

CHAPTER 53
DETERMINATION OF NET INCOME

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 502, IAC Supplement 11/2/22

CHAPTER 54
ALLOCATION AND APPORTIONMENT

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 503, IAC Supplement 11/2/22

CHAPTER 55
ASSESSMENTS, REFUNDS, APPEALS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 504, IAC Supplement 11/2/22

CHAPTER 56
ESTIMATED TAX FOR CORPORATIONS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 505, IAC Supplement 11/2/22

CHAPTER 57
ADMINISTRATION

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 600, IAC Supplement 11/2/22

CHAPTER 58
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST,
AND TAX CREDITS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 601, IAC Supplement 11/2/22

CHAPTER 59
DETERMINATION OF NET INCOME

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 602, IAC Supplement 11/2/22

CHAPTER 60
ASSESSMENTS, REFUNDS, APPEALS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 603, IAC Supplement 11/2/22

CHAPTER 61
ESTIMATED TAX FOR FINANCIAL INSTITUTIONS
[Prior to 12/17/86, Revenue Department[730]]
Transferred to 701—Chapter 604, IAC Supplement 11/2/22

CHAPTER 62
Reserved

CHAPTER 63
ADMINISTRATION
[Prior to 12/17/86, Revenue Department[730]]
Rescinded IAB 11/19/08, effective 12/24/08

CHAPTER 64
MOTOR FUEL
[Prior to 12/17/86, Revenue Department[730]]
Rescinded IAB 11/19/08, effective 12/24/08

CHAPTER 65
SPECIAL FUEL
[Prior to 12/17/86, Revenue Department[730]]
Rescinded IAB 11/19/08, effective 12/24/08

CHAPTER 66
Reserved

CHAPTER 67
ADMINISTRATION
[Prior to 1/1/96, see 701—Ch 63]
Transferred to 701—Chapter 259, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 68
MOTOR FUEL AND UNDYED SPECIAL FUEL
[Prior to 1/1/96, see 701—Ch 64]
Transferred to 701—Chapter 260, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 69
LIQUEFIED PETROLEUM GAS—
COMPRESSED NATURAL GAS—LIQUEFIED NATURAL GAS
[Prior to 1/1/96, see 701—Ch 65]
Transferred to 701—Chapter 261, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 70
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX
Transferred to 701—Chapter 101, IAC Supplement 11/2/22

CHAPTER 71
ASSESSMENT PRACTICES AND EQUALIZATION
[Prior to 12/17/86, Revenue Department[730]]
Transferred to 701—Chapter 102, IAC Supplement 11/2/22

CHAPTER 72

EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 103, IAC Supplement 11/2/22

CHAPTER 73

PROPERTY TAX CREDIT AND RENT REIMBURSEMENT

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 104, IAC Supplement 11/2/22

CHAPTER 74

MOBILE, MODULAR, AND MANUFACTURED HOME TAX

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 105, IAC Supplement 11/2/22

CHAPTER 75

COLLECTION OF PROPERTY TAX

Transferred to 701—Chapter 100, IAC Supplement 11/2/22

CHAPTER 76

DETERMINATION OF VALUE OF RAILROAD COMPANIES

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 106, IAC Supplement 11/2/22

CHAPTER 77

DETERMINATION OF VALUE OF UTILITY COMPANIES

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 107, IAC Supplement 11/2/22

CHAPTER 78

REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

Transferred to 701—Chapter 108, IAC Supplement 11/2/22

CHAPTER 79

REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 109, IAC Supplement 11/2/22

CHAPTER 80

PROPERTY TAX CREDITS AND EXEMPTIONS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 110, IAC Supplement 11/2/22

CHAPTER 81

ADMINISTRATION

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 254, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 82

CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE NICOTINE
PRODUCTS OR VAPOR PRODUCTS

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 255, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 83
TOBACCO TAX

[Ch 83, Selling Cigarette Revenue in Banks, rescinded, see IAC 4/2/80]
[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 256, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 84
UNFAIR CIGARETTE SALES

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 257, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 85
TOBACCO MASTER SETTLEMENT AGREEMENT

Transferred to 701—Chapter 258, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTER 86
INHERITANCE TAX

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 900, IAC Supplement 11/2/22

CHAPTER 87
IOWA ESTATE TAX

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 901, IAC Supplement 11/2/22

CHAPTER 88
GENERATION SKIPPING TRANSFER TAX

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 902, IAC Supplement 11/2/22

CHAPTER 89
FIDUCIARY INCOME TAX

[Formerly fiduciary rules ch 48, See IAB 9/30/81]

[Prior to 12/17/86, Revenue Department[730]]

Transferred to 701—Chapter 700, IAC Supplement 11/2/22

CHAPTER 90
Reserved

CHAPTER 91
ADMINISTRATION OF MARIJUANA AND
CONTROLLED SUBSTANCES STAMP TAX

Transferred to 701—Chapter 262, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTERS 92 to 96
Reserved

730—Chapters 91 to 96 transferred to 195—Chapters 20 to 25
See Racing and Gaming Commission[491]

CHAPTER 97
STATE-IMPOSED WATER SERVICE EXCISE TAX
Transferred to 701—Chapter 252, **ARC 6508C**, IAB 9/7/22, effective 10/12/22

CHAPTERS 98 and 99
Rescinded, filed emergency effective 11/26/79