



MINUTES

MARCH 2024 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Mike Klimesh, Chair
Senator Cindy Winckler

Representative Megan Jones, Vice Chair
Representative Amy Nielsen
Representative Rick L. Olson
Representative Michael V. Sexton
Representative David E. Young

EX OFFICIO, NONVOTING MEMBER: Nate Ristow, Administrative Rules Coordinator, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Jack Ewing, Administrative Code Editor, 515.281.6048, and Kate O'Connor, Division Editor/Supervisor, 515.281.6329

BULLETINS NEEDED FOR THIS MEETING: 2/7/24, 2/21/24

Procedural Business

Senator Klimesh convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 10 a.m. on Monday, March 11, 2024, in Room 116, State Capitol, Des Moines, Iowa. The minutes of the January 8 and February 5, 2024, meetings were approved. The next meeting was scheduled for Monday, April 8, 2024, at 10:00 a.m. The meeting was adjourned at 11:55 a.m.

Fiscal Overview

Mr. Chris Ubben, Division Editor/Supervisor, presented the LSA fiscal report.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Representing the agency: Colin Tadlock, John Krzton-Presson

ARC 7643C (NOIA), Women, Infants, and Children/Farmers' Market Nutrition Program and Senior Farmers' Market Nutrition Program, Ch. 50

Committee members asked for clarification regarding certification of vendors, farmers' markets, and community supported agriculture (CSA). Mr. Tadlock and Mr. Krzton-Presson explained that there are three separate certifications for vendors, farmers' markets, and CSAs. Mr. Krzton-Presson explained the rules were partially based on regulations of the United States Department of Agriculture, and the intent of the program is to increase community attendance at farmers' markets, not just to increase sales. Members suggested the multiple certifications seem onerous. Members asked if there is signage or advertising for certified farmers' markets. Mr. Krzton-Presson stated both are used, and the department also has an online directory. Members asked if this program has an effect on other programs available for farmers' markets, such as Double Up Food Bucks. He stated this program does not affect such other programs.

No action taken on ARC 7643C.

Rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

EDUCATION DEPARTMENT

Representing the agency: Thomas Mayes

ARC 7587C (NOIA), Private Instruction and Dual Enrollment, Ch. 31

Committee members asked how competent private instruction with concurrent enrollment is funded. Mr. Mayes explained that this generates additional funding for a family for concurrent enrollment. Members asked where funding for independent private instruction would occur for concurrent enrollment. He explained the funding would be in the school district of residence. Members asked if the department would be recommending any statutory changes as a result of the department's work on the rulemaking. He stated the department was not recommending any at present. Mr. Mayes noted that ARC 7586C would be revised to align with changes that would be made to ARC 7587C on adoption.

Mr. Joe Bailey, speaking on behalf of Homeschool Iowa and the Home School Legal Defense Association, noted those organizations and families that home school had submitted over 700 comments to the department on the rulemaking, many of which had been addressed by the department. He explained that some issues with the rulemaking were longstanding, and expressed hope that such issues could be addressed and that both organizations could continue to work productively with the department.

Mr. Aaron Neely, also speaking on behalf of Homeschool Iowa, encouraged the department to work with the Home School Legal Defense Association on the rulemaking.

Ms. Lauren Gideon, speaking on behalf of Classical Conversations, explained that her organization has over 1,500 students that are home schooled in Iowa and supports comments on the rulemaking made by Homeschool Iowa and the Home School Legal Defense Association.

No action taken on ARC 7587C.

ARC 7591C (NOIA), School Buses, Ch. 44

Committee members asked why the department had not included national fire safety rules regarding fire suppression in bus cabins in the rulemaking. Mr. Mayes explained that the rulemaking was prepared based on consensus by a broad group of staff, who felt this was not necessary. He explained that adoption of those standards would not have prevented a fire that occurred in a school bus several years earlier.

No action taken on ARC 7591C.

ARC 7594C (NOIA), Educational Programs and Services for Pupils in Juvenile Homes, Ch. 63

Committee members asked if there is additional supplemental weighting for pupils in juvenile homes in the school funding formula. Mr. Mayes indicated it was his understanding that this is funded by a direct appropriation.

No action taken on ARC 7594C.

ARC 7603C (NOIA), Community Colleges; Community College Accreditation, Chs. 21, 24

Committee members asked what is the benefit of the state working with the Higher Learning Commission when state law regulates the same subject matter similarly. Mr. Mayes explained that the commission facilitates movement of higher learning accreditation across state lines. Members asked if there was redundancy between the two regulatory schemes. He explained that the commission focuses on governance and fiscal soundness and noted that state law requires that the department's rules align with the standards of the commission. He further explained that the department and commission work together to reduce redundancy by combining site visits. Members asked what would trigger further review by the commission. He stated that negative audit findings, complaints, or negative interim findings might trigger further review by the commission, but noted that the department is not bound by the findings of the commission.

No action taken on ARC 7603C.

RACING AND GAMING COMMISSION

Representing the agency: Tina Eick

ARC 7634C (AF), Proceedings; Sports Wagering; Fantasy Sports Contests, Rules 4.1, 4.4, 4.5, 13.2, 13.5, 13.6(3), 14.7(2), 14.8

Committee members expressed concern that stakeholders were not able to offer public comments to the commission. Ms. Eick explained that no one attended the public hearing on the notice, but the commission did receive comments from the public and from the committee. She further explained that the commission received additional comments later after the public comment period had ended, shortly before the commission was to adopt the final rules. Because the later comments were received so close to final adoption, the commission felt it was too late to make additional changes to the rulemaking. She stated that the previous administrator of the commission felt the commission had addressed all of the comments received up until then. Members expressed dissatisfaction with the commission not acting on all public comments received. Members asked if a collegiate governing body such as the National Collegiate Athletic Association had commented on the rulemaking, and she responded that she was not aware of any comments from such a body.

Committee members asked how the rulemaking had come about. Ms. Eick explained that the Governor's office asked the commission to work with the Department of Criminal Investigation (DCI) to pursue rulemaking on this matter. The commission reviewed how other states regulate in this area to see what Iowa operators were already being required to do in other states, so that compliance in Iowa would be workable. She explained that 38 other states have regulations with some similarity to what the commission adopted. Members stated that DCI had not handled this matter well. Mr. Ristow clarified that the Governor's office did not ask the commission to pursue the rulemaking, but that the previous administrator of the commission had brought the matter to the Governor's office and expressed interest in implementing a better screening process for electronic betting. Mr. Ristow explained that the Governor's office had authorized the commission to pursue the matter after the previous administrator inquired, but the Governor's office did not initiate the discussion and had not heard any complaints about the rulemaking until January.

Committee members stated that the rulemaking exceeded the commission's statutory authority and that the commission should have pursued legislation on this matter instead. Members asked whether certain terms in the rulemaking, such as "direct involvement," were defined. Ms. Eick explained that these were not defined in the rulemaking or in statute.

Committee members had extensive questions regarding the prohibited persons list that is required by the rulemaking, which prohibits participation by coaches, athletic trainers, officials, and players, among others. Ms. Eick explained that licensees would be required to check persons signing up to bet electronically against the prohibited players list. Iowa would be the first state to require a prohibited players list, although other states are considering it. The commission would not maintain the list. It would be maintained by a third-party company called U.S. Integrity using a program called Prohibet. Licensees would also have the option of maintaining their own list. The commission would only access the list in the event of a possible violation. Ms. Eick noted that U.S. Integrity currently does not have an agreement with the Big 10 athletic conference, so the University of Iowa would not be covered by Prohibet. She explained that the Big 10 was not yet comfortable providing names to U.S. Integrity. She explained that U.S. Integrity is currently offering to maintain prohibited player lists for free, although it may not always remain free. She was unsure how much it would cost licensees to maintain their own lists. Members expressed concern that the cost of maintaining a list may be high.

Committee members noted that some athletes criminally charged with placing unlawful bets had subsequently had the charges dropped. Members expressed concern that DCI could gain access to a prohibited players list without a warrant and asked if this was possible. Ms. Eick stated she was unsure, but historically, if the commission has a question that is not addressed in statute, the commission seeks advice from the Attorney General's office. Members asked what happens if a list is inaccurate. She explained that a list which meets the requirements of the rulemaking is sufficient even if omissions are found. Members expressed concern that many additional third parties may prepare lists, which may be of low quality. She explained that any third party offering a prohibited player list must be evaluated by the commission. Members expressed concern that it may not always be clear who should be on a prohibited players list, particularly for persons with tangential connections to athletes.

Session Delay

A motion for a session delay on items 8-16 of ARC 7634C carried on a 7-0 roll call vote.