

CHAPTER 34
FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS
OR MENTAL HEALTH INSTITUTES

281—34.1(218) 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 human services: the Mental Health Institute, Cherokee, Iowa; the Mental Health Institute, Independence, Iowa; the State Training School, Eldora, Iowa; and the Iowa Juvenile Home, Toledo, Iowa.

281—34.2(218) Definitions. For the purposes of these rules, the following definitions shall 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 shall be calculated on the regular school year exclusive of summer session.

“*Department*” means the state department of education.

“*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 which specifies all the special education and related services for an eligible individual.

“*Institution*” means the Mental Health Institute, Cherokee, Iowa; the Mental Health Institute, Independence, Iowa; the State Training School, Eldora, Iowa; and the Iowa Juvenile Home, Toledo, 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.

“*School district of the child’s residence*” means the school district in which the parent or guardian of the child resides or as defined under operation of law.

“*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 and the child’s district of residence 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.

281—34.3(218) General principles.

34.3(1) Availability. All children who reside in state institutions and mental health institutes shall be provided appropriate educational services in accordance with these rules. Special education services to eligible individuals in institutions shall be provided in accordance with 281—Chapter 41.

34.3(2) Responsibility of institutions. It is the responsibility of institutions to provide or make provision 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 provision by contracting with the AEA or the school district in which the institution is located.

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 required 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 shall be comparable to those provided to school districts in the AEA.

281—34.4(218) Notification.

34.4(1) Students served at mental health institutes. The Mental Health Institute, Cherokee, Iowa, and the Mental Health Institute, Independence, Iowa, shall notify the district of residence of each child who on the third Friday in September is residing in these institutions. The notification shall occur on or after the third Friday in September and on or before the fourth Friday in September and shall be in writing or in a printable electronic medium. The notification shall 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 and the Iowa Juvenile Home at Toledo. The State Training School at Eldora and the Iowa Juvenile Home at Toledo shall notify the AEA in which the institution is located and the district of residence of each child who on the third Friday in September is residing in these institutions if the child's release date is known and the release date is within the current school year. The notification shall occur on or after the third Friday in September and on or before the fourth Friday in September. For students served pursuant to an IEP, the State Training School at Eldora and the Iowa Juvenile Home at Toledo shall 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 these institutions if the child's release date is known and the release date is within the current school year. Notifications shall be in writing or in a printable electronic medium and shall include the child's name, birth date and grade level and the names and addresses of the child's parents or guardians.

281—34.5(218) Program submission and approval. Educational programs shall be submitted, reviewed, modified, and approved using the following procedures:

34.5(1) Submission. Each institution shall submit a proposed educational program to the department of education and the department of human services by January 1 for the following school year. The proposed program shall be submitted on forms provided or in the manner prescribed by the department and shall include a description of the following:

a. The general education program including content standards, benchmarks, student learning goals and all other requirements 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 school district of the child's residence.

34.5(2) Approval. The department shall review and approve or modify the proposed educational program by February 1 and communicate this action to each institution. The department shall also notify the department of revenue of its action by February 1.

281—34.6(218) Budget submission and approval. Educational program budgets shall be submitted, reviewed, modified, and approved using the following procedures:

34.6(1) Submission. Each institution shall submit a proposed educational program budget by January 1 for the following school year. The proposed budget shall be based on the average daily attendance of the children residing in the institution and shall be submitted to the department of education and the department of human services on forms provided by the department. The average daily attendance used for the proposed budget shall be the average daily attendance for the school year that ended the previous June 30.

34.6(2) Students not served pursuant to an IEP. The budget shall be calculated as the sum of the following:

a. Average daily attendance multiplied by the state cost per pupil for the budget year established pursuant to Iowa Code section 257.9.

b. Average daily attendance 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. Average daily attendance 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 shall 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, subsection 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 and the Iowa Juvenile Home at Toledo may include in their budgets an amount that represents the difference between the amount established pursuant to Iowa Code (2003) section 282.28 and approved by the department for the 2003-2004 fiscal year included in the fiscal year beginning July 1, 2003, and the amount each institution has budgeted under paragraph 34.6(3)“c.” The budget amount shall increase annually by the allowable growth rate established for that year.

e. In addition to the amount each institution has budgeted as specified in paragraph 34.6(3)“c,” the mental health institutes at Cherokee and Independence may include annually in their budgets 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 shall increase annually by the allowable growth rate established for that year.

34.6(4) Approval. The department shall review and approve or modify the proposed educational program budget by February 1 and communicate this action to each institution. The department shall also notify the department of revenue of its action by February 1.

281—34.7(218) Payments. The department of revenue shall pay the approved budget amount to the department of human services in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of revenue, taking into consideration the relative budget and cash position of the state's resources. The department of revenue shall pay the approved budget amount for the department of human services from the moneys appropriated under Iowa Code section 257.16, and the department of human services shall distribute the payment to each institution.

281—34.8(218) 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.

281—34.9(218) Contracting for services. The institution may contract with the AEA or the local school district in which the institution is located to provide services to the students residing in the institution.

281—34.10(218) Accounting for average daily attendance. Each institution shall keep a daily register that shall include the name, birth date, district of residence, attendance, and enrollment status of each student. At the end of the school year, each institution shall calculate the average daily attendance for students served pursuant to an IEP and the average daily attendance for students not served pursuant to an IEP. This information shall be reported with the accounting for the actual program costs submitted to the department by August 1.

281—34.11(218) Accounting for actual program costs. Each institution shall submit an accounting for the actual cost of the program to the department by August 1 of the following school year on forms provided by the department.

34.11(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.

34.11(2) Administrative costs. Costs for administering the educational program may be included in actual costs based on the average daily attendance of students in the institution. Costs shall 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 at any institution shall not exceed 1.0 for education administration and 1.0 for clerical support.

34.11(3) Unallowed costs. Costs shall 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 shall 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.

34.11(4) Summer school costs. Costs for providing summer school shall 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 human services.

34.11(5) Instruction to nonresident students. Costs for providing instruction to students who are not residents of the state of Iowa shall be excluded from the actual cost calculations.

34.11(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 shall not exceed the greater of the actual average daily attendance for the school year multiplied by the state cost per pupil or the average daily attendance from the approved budget multiplied by the state cost per pupil.

34.11(7) *Maximum costs for students served pursuant to an IEP.* Actual costs for students served pursuant to an IEP shall not exceed the amount calculated in subrule 34.6(3).

34.11(8) *Approval of expenditures.* The department shall review and approve or modify all expenditures incurred in compliance with the guidelines adopted pursuant to Iowa Code section 256.7, subsection 10, and shall notify the department of revenue of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of revenue to the department of human services and any differences added to or subtracted from the October payment made under these rules for the next school year.

281—34.12(218) **Audit.** Each institution shall 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.

281—34.13(218) **Hold-harmless provision.** Notwithstanding rule 281—34.6(218), any institution that would receive less funding in its proposed budget pursuant to these rules for the instructional program for the 2003-2004 school year than it had received in funding for the instructional program for the 2002-2003 school year shall be held harmless. The institution shall receive an amount equal to the amount it was funded in 2002-2003. This provision shall continue until the first year in which the proposed budget pursuant to these rules would equal or exceed the amount it had received for the instructional program for the 2002-2003 school year. The hold-harmless provision shall cease beginning with the first year in which the proposed budget pursuant to these rules equals or exceeds the 2002-2003 funding amount.

281—34.14(218,256B,34CFR300) **AEA services.** Each institution shall 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 rule 281—34.8(218). The nature and extent of such services shall be comparable to those provided to school districts in the AEA.

These rules are intended to implement 2003 Iowa Acts, chapter 178, section 58.

[Filed 11/19/03, Notice 10/1/03—published 12/10/03, effective 1/14/04]

CHAPTER 35

Reserved