



MINUTES

SEPTEMBER 2022 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Waylon Brown, Chair	Representative Megan Jones, Vice Chair [by teleconference]
Senator Julian B. Garrett	Representative Mike Bousset
Senator Robert Hogg [by teleconference]	Representative Amy Nielsen
Senator Pam Jochum [by teleconference]	Representative Rick L. Olson
	Representative Mike Sexton

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, Legal Counsel, 515.281.6329

BULLETINS NEEDED FOR THIS MEETING: 8/10/22, 8/24/22

Procedural Business

Senator Brown convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9 a.m. on Tuesday, September 13, 2022, in Room 116, State Capitol, Des Moines, Iowa. Video of the meeting has been posted here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. The minutes of the August 9, 2022, meeting were approved. The next meeting was scheduled for Tuesday, October 11, 2022, at 9 a.m. Senator Brown noted the meeting would cover three bulletins. The meeting was adjourned at 1 p.m.

Fiscal Overview

Mr. Eric Richardson, Fiscal Legislative Analyst, presented the LSA fiscal report.

HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg, Janee Harvey

ARC 6439C (AF), Declaratory Orders—Five-Year Review of Rules, Rules 5.1, 5.3(3), 5.5, 5.6, 5.9(2), 5.10, 5.11

No discussion on ARC 6439C.

ARC 6440C (AF), Food Assistance Program—Change of Name to Supplemental Nutrition Assistance Program (SNAP); Family Self-Sufficiency Grants Program, Ch. 47

No discussion on ARC 6440C.

ARC 6441C (AF), Foster Home Insurance Fund—Auto Damage by Foster Children, Rule 158.3(1)“b”

No discussion on ARC 6441C.

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).

ARC 6456C (NOIA), Child Care Expansion Programs, Ch. 168
No discussion on ARC 6456C.

ARC 6457C (NOIA), Residential Facilities for Children with an Intellectual Disability or Brain Injury—Five-Year Review of Rules, Rule 116.2
No discussion on ARC 6457C.

ARC 6458C (NOIA), PROMISE JOBS Program, Ch. 93
No discussion on ARC 6458C.

ARC 6469C (NOIA), Developmental Disabilities Basic State Grant — Definition of “Developmental Disability,” Conflict of Interest Policy, Rules 38.1, 38.4
Committee members asked why the word “defined” was changed to “described.” Ms. Freudenberg explained that language of the rule did not repeat the language of the statutory definition being referenced verbatim.
No action taken on ARC 6469C.

ARC 6472C (NOIA), Facility Participation, Rules 54.1-54.3, 54.5-54.8
No discussion on ARC 6472C.

ARC 6473C (NOIA), Record Check Evaluations—Documentation, Rule 119.3(1)
No discussion on ARC 6473C.

ARC 6474C (NOIA), Home- and Community-Based Habilitation Services—Eligibility, Rule 78.27(2)
No discussion on ARC 6474C.

ARC 6475C (NOIA), Reimbursement of Providers of Medical and Health Services—Cost Report Reviews, Rule 79.1
No discussion on ARC 6475C.

ARC 6476C (NOIA), Child Care Centers; Child Development Homes; Child Care Homes, Rules 109.4(2), 109.6, 109.7, 109.10, 109.11, 110.9(4), 110.15(1)“c,” 120.9(2)
Committee members asked in regard to the exemption from health and safety training in item 6 if there are other training requirements in place and where they can be found. Ms. Freudenberg stated she would follow up with that information.
No action taken on ARC 6476C.

PROFESSIONAL LICENSURE DIVISION

Representing the agency: Steven Garrison

ARC 6459C (NOIA), Barbers—Licensure, Continuing Education, Independent Study, Rules 21.2, 21.16, 24.1
No discussion on ARC 6459C.

ARC 6464C (AF), Respiratory Care Practitioners and Polysomnographic Technologists—Polysomnography Licensure Fees, Rule 5.17
No discussion on ARC 6464C.

CREDIT UNION DIVISION

Representing the agency: Jessica Pollmeier

ARC 6443C (NOIA), Application of Generally Accepted Accounting Principles, Rules 2.12(2), 9.1(3), 15.2(2), 17.4(1), 18.1, 18.3(1), 18.4(1), 18.5(1)
Committee members asked why the remainder of the text in subrule 18.5(1) in item 8 was not included. Ms. Pollmeier explained that this was omitted from the bulletin as part of the editing process.
No action taken on ARC 6443C.

ECONOMIC DEVELOPMENT AUTHORITY

Representing the agency: Lisa Connell

ARC 6444C (NOIA), Sports Tourism Program—Marketing Fund, Infrastructure Fund, Chs. 214-216
No discussion on ARC 6444C.

ARC 6467C (AF), Workforce Housing Tax Incentives Program, Ch. 48
No discussion on ARC 6467C.

ARC 6470C (NOIA), Butchery Innovation and Revitalization Program, Ch. 51
No discussion on ARC 6470C.

ARC 6471C (NOIA), High Quality Jobs Program—Wage Threshold, Ch. 174
No discussion on ARC 6471C.

COLLEGE STUDENT AID COMMISSION

Representing the agency: Todd Brown

ARC 6478C (NOIA), Health Care Professional Recruitment Program, Rules 14.1, 14.2(6)
No discussion on ARC 6478C.

ARC 6479C (NOIA), Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program—Part-Time Enrollment, Rule 15.3(1)“j”(1)
No discussion on ARC 6479C.

ARC 6480C (NOIA), Rural Iowa Primary Care Loan Repayment Program, Rules 24.2, 24.3, 24.5-24.8
No discussion on ARC 6480C.

LOTTERY AUTHORITY, IOWA

Representing the agency: Megan Tooker

ARC 6445C (NOIA), Licensing—Five-Year Review of Rules, Rules 12.1, 12.4, 12.12-12.15
No discussion on ARC 6445C.

PUBLIC SAFETY DEPARTMENT

Representing the agency: Sarah Jennings

ARC 6462C (AF), Local Fire Protection and Emergency Medical Service Providers Grant Program, Rule 265.51
No discussion on ARC 6462C.

TRANSPORTATION DEPARTMENT

Representing the agency: Tracy George, Kelli Huser, Kathleen Meredith-Eyers, Tim McClung

ARC 6447C (NOIA), Contested Cases, Rules 13.4-13.7, 13.12(3)
No discussion on ARC 6447C.

ARC 6465C (NOIA), Persons with Disabilities Parking Permits, Ch. 411
Committee members asked if the department expects an increase in permit applications under the rulemaking. Ms. Huser was unsure and stated she would follow up.
No action taken on ARC 6465C.

ARC 6466C (NOIA), Driver’s Licenses for Active Duty Military Service Members and Veterans, Rule 605.10
No discussion on ARC 6466C.

ARC 6477C (NOIA), Airport Registration; Special Certificates for Aircraft, Chs. 720, 750
No discussion on ARC 6477C.

REVENUE DEPARTMENT

Representing the agency: Clara Wulfsen

ARC 6446C (NOIA), Personal Service and Paperless Delivery of Notices, Correspondence, and Other Communication, Rules 7.33, 8.6
No discussion on ARC 6446C.

ARC 6448C (NOIA), Income Tax Returns—Whole Dollars, Rule 8.5(2)“a”
No discussion on ARC 6448C.

ARC 6449C (NOIA), Appeals, Taxpayer Representation, and Other Administrative Procedures, Rules 7.6, 7.9(6)
No discussion on ARC 6449C.

ARC 6450C (NOIA), Tax-Related Due Dates that Fall on Saturdays, Sundays, or Holidays, Chs. 7, 39, 48, 52, 58, 70, 78, 87, 89
No discussion on ARC 6450C.

ARC 6451C (NOIA), Corporate Income Tax Rate Adjustments, Rule 51.10
Committee members asked the department to keep the committee informed about any changes to the rulemaking. Members asked if the department is aware of other examples where the General Assembly delegated the setting of a rate of taxation to the department. Ms. Wulfsen stated she would have to investigate further, but noted that certain rates based on consumer price index inflation factors are set in a similar fashion and that there may be other examples.
No action taken on ARC 6451C.

ARC 6452C (NOIA), Public Records and Fair Information Practices; General Administration; Tax Return Extension in Disaster Areas, Chs. 5, 6, 10
No discussion on ARC 6452C.

ARC 6453C (NOIA), Failure to File Penalty, Rule 10.9
No discussion on ARC 6453C.

INSPECTIONS AND APPEALS DEPARTMENT

Representing the agency: Ashleigh Hackel, Mark Speltz

ARC 6454C (NOIA), Home Food Processing Establishments, Ch. 34
No discussion on ARC 6454C.

ARC 6455C (NOIA), Food and Consumer Safety; Food Establishment and Food Processing Plant Inspections, Chs. 30, 31
Committee members asked for background on the change of routine inspections of food establishments from 36 months to 60 months. Mr. Speltz explained that the department is conducting more food inspections than it ever has, but it is focusing more on nonroutine inspections of higher-risk facilities, and adjusting to the frequency of routine inspections will facilitate that. Members asked what oversight the department will maintain over lower-risk facilities. He explained that the department will investigate complaints and conduct routine inspections.

Committee members asked what the department’s authority is to change the inspection frequency and if the department will seek additional resources in order to increase the routine inspection frequency. Mr. Speltz explained that inspection frequency is not set by statute, but is based on the department’s risk-based assessment methodology which has a 5-tier graduated inspection frequency. He stated that the frequency provided in the rule had not been updated in many years and that he would discuss the need for any additional resources with the director of the department. Members asked him to provide the committee with the risk-based assessment methodology. Members asked if the results of inspections are published, and he explained that they are available on a searchable website, although unverifiable or unfounded complaints are not published.

No action taken on ARC 6455C.

MEDICINE BOARD

Representing the agency: Joseph Fraioli

ARC 6442C (AF), Collaborative Pharmacy Practice, Rule 13.4

No discussion on ARC 6442C.

ARC 6461C (NOIA), Abortion Prerequisites, Rule 13.16

No discussion on ARC 6461C.

EDUCATIONAL EXAMINERS BOARD

Representing the agency: Nicole Proesch

ARC 6468C (AF), Paraeducator Substitute Authorization, Rule 24.4(9)

No discussion on ARC 6468C.

EDUCATION DEPARTMENT

Representing the agency: Thomas Mayes, Kassandra Cline

ARC 6481C (AF), Iowa Vocational Rehabilitation Services, Ch. 56

No discussion on ARC 6481C.

ARC 6484C (NOIA), Preparation Programs—Teacher Interns, Practitioners, Administrators, Rules 77.11(2), 79.13(4), 79.15(6)

No discussion on ARC 6484C.

ARC 6482C (NOIA), Open Enrollment, Chs. 6, 17, 36, also Filed Emergency ARC 6483C

No discussion on ARC 6482C or ARC 6483C.

ARC 6485C (NOIA), Charter Schools—Funding, Rules 19.11(4)“c,” 19.12, also Filed Emergency ARC 6486C

Committee members asked the department to explain why the department had awarded \$1 million to Choice Charter School (Choice) for startup costs while Hamburg Charter High School (Hamburg) received no funding. Members also stated that Choice had found the department difficult to work with. Mr. Mayes explained that Hamburg uses the state charter model, so it has existing resources to rely on such as a school building, while Choice uses the founder model, so it has fewer resources. He further explained that the \$1 million was part of federal Covid relief funding for innovative schools that serve struggling students. Such funding is subject to various state and federal requirements and must be paid on a reimbursement basis, not paid up front.

Dr. Cynthia Knight, speaking on behalf of Choice, stated that she was grateful for the \$1 million, as Choice would not have been able to open without it. She stated that there should be more innovative methods of funding charter schools and that charter schools should receive funds on a schedule similar to public schools. She explained that the current funding schedule for charter schools causes too much fluctuation. Committee members asked for more information about the structure of Choice, and Dr.

Knight explained that Choice is a fully online school that is based in the “metaverse;” it has no physical location. Students attend from wherever they are physically located. She further explained that Choice is the first charter school in the state that is not affiliated with a public school, that students are not charged tuition, that the first school year had recently begun, and that graduating students earn a diploma. She described Choice as a high school mostly consisting of tenth graders, including some with special needs and 504 plans, with a goal of helping students age 18-21 earn a diploma.

Additional discussion occurred regarding the funding process for Choice. Dr. Knight stated that for the first year of funding, she was required to provide an estimate of how many students she expected, and she estimated 300. Choice actually has 75 students in its first year, and that is how many Choice receives funding for under the rules. As a result, she stated Choice is unable to pay its expenses. Mr. Mayes explained that while the first year funding is paid based on the estimated number of students, the second year payment includes a recoupment by the department of any funds paid due to an overestimation in the first year. Legislation enacted in the 2022 session made the transition from the first year to the second year less difficult financially. He further explained that the \$1 million is a different source of funds than those paid out under state law and described the criteria for receiving the federal funds. He explained that the purpose of the federal funding is so that the department can receive data from Choice on its innovative practices in order to determine whether such practices can be scaled up for use by school districts. He additionally explained state and federal accountability measures with which Choice must comply as a condition of receiving the funds and noted that the federal funding was not a subject of the rulemaking, which only covers state funding. Dr. Cline provided additional background on the state funding process. Members asked Dr. Knight if she considered the rulemaking helpful to charter schools and if it could be improved. She described it as a work-in-progress and urged further effort to improve the process by which charter schools are started.

No action taken on ARC 6485C or ARC 6486C.