

CHAPTER 3
JUVENILE JUSTICE ADVISORY COUNCIL
[Prior to 3/4/92, see Children, Youth and Families Division, 425—Chapter 7]

428—3.1(216A) Definitions. As used in this chapter:

“*Administrator*” means administrator of the division of criminal and juvenile justice planning within the department of human rights.

“*Application*” means a request for Juvenile Justice Delinquency Prevention Act (JJDP) funds which complies with federal and state requirements.

“*Council*” means the juvenile justice advisory council.

“*Division*” means the division of criminal and juvenile justice planning which is the division staff within the department of human rights.

“*Grantee*” means the designated state administrator for a specific federal grant program.

“*Grant review committee*” means a committee of the council designated by the council to screen and review JJDP applications and submit funding recommendations to the council. The council may appoint individuals who are not members of the council to serve on this committee.

“*Juvenile justice advisory council*” means the federally mandated board assigned to the division of criminal and juvenile justice planning to administer federal grant funds and to improve the juvenile justice system in Iowa.

“*Office of Juvenile Justice and Delinquency Prevention*” means the federal office within the U.S. Department of Justice that administers the juvenile justice and delinquency prevention Act.

“*Subgrantee*” means any applicant receiving grant funds under this program.

428—3.2(216A) General purpose and guidelines.

3.2(1) The juvenile justice advisory council was established in 1975 by the governor of Iowa in accordance with the federal Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974. Effective July 1, 1991, the council and its programs were placed in the division of criminal and juvenile justice planning in the department of human rights.

3.2(2) All inquiries on the council shall be directed in writing or verbally to the Juvenile Justice Advisory Council, Division of Criminal and Juvenile Justice Planning, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319, (515)281-3241.

3.2(3) The purpose of the council is to advise the division on juvenile justice issues. The council shall submit to the governor and the legislature, at least annually, recommendations with respect to matters related to its functions, including compliance with the requirements of paragraphs 223 a (12) (13) (14) of the JJDP, PL 93-415 as amended; and shall have an opportunity to review and comment on all JJDP grant applications submitted to the division. Additionally the council may be given a role in monitoring compliance with the requirements of paragraphs 223 a (12) (13) (14) of the JJDP, shall contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system, and participate in the development and review of the state’s juvenile justice plan.

428—3.3(216A) Composition of the council. The council shall consist of not less than 15 and not more than 33 persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice programs. A majority of the members (including the chair) shall not be full-time employees of the federal, state or local government. At least one-fifth of the members shall be under the age of 24 at the time of appointment. Council members are appointed by the governor. The council shall include locally elected officials, representation of units of local government, law enforcement and juvenile justice agencies such as corrections, probation personnel, juvenile or family court judges, public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, special education, or youth services departments, which shall include:

1. Representatives of private organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned with the quality of juvenile justice, education, or social services for children;
2. Representatives of organizations which utilize volunteers to work with delinquents or potential delinquents;
3. Representatives of community-based delinquency prevention or treatment programs;
4. Representatives of business groups or businesses employing youth;
5. Youth workers involved with alternative youth programs; and
6. Persons with special experience and competence in addressing the problems of the family, school violence and vandalism, and learning disabilities.

428—3.4(216A) Activities of the council.

3.4(1) Council activities include monitoring compliance with the requirements of the JJDP. The JJDP requires that the participating states will provide that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities (223(a)(12)(A)); will provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges (223(a)(13)); and will provide that beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except in conformance with exceptions that the administrator of the office of juvenile delinquency prevention shall promulgate (223(a)(14)).

3.4(2) The division staff will monitor jails and lockups for compliance with the JJDP requirements in the state, through the collection of self-report data of juvenile holdings from all jails and lockups in the state. Self-report information will also be collected from the state juvenile home, state training school, detention centers and the mental health institutes relative to provisions of 223(a)(12)(A) and 223(a)(13). Staff will do on-site verification of the data consistent with federal requirements. Through written agreement, the jail inspection unit of the department of corrections will provide the division and the specific jails and lockups with certification of their ability to separate juveniles and adults, consistent with 223(a)(13).

3.4(3) Through written agreement, the department of inspections and appeals will provide information to the division on holdings relative to 223(a)(12)(A) in contracted private facilities which the department of inspections and appeals has authority to inspect.

3.4(4) Through written agreement, the department of human services will provide information to the division on holdings relative to 223(a)(12)(A) in state institutions which the department of human services administers.

428—3.5(216A) State plan. The division and the council will prepare a three-year plan with annual amendments and annual performance reports on progress on the established plan. The three-year plan, amendments and performance reports shall be completed by dates designated by the office of juvenile justice and delinquency prevention. The plan shall identify juvenile justice problems and priority areas for program development and funding in the state.

428—3.6(216A) Juvenile justice projects. JJDP A funds are made available to the state by the federal government for projects to improve the juvenile justice system. In the years that funds are available, the council will advise the division of which problem areas identified in the three-year plan should be addressed through the funding process. The funding process may include competitive grant projects and sole source projects. The division will administer the funds to eligible applicants for projects which address problem areas identified by the council. The amount of the money granted shall be contingent upon the funds available and shall be made on an annual basis.

428—3.7(216A) Competitive grant application procedures.

3.7(1) The administrator of the division will announce through public notice the opening of any competitive grant period. This announcement shall provide potential applicants with sufficient information to describe the problem areas for which funding may be available, the application procedures including any preapplication proposals or any other requirements placed on potential applicants.

3.7(2) The division may request potential applicants to submit a preapplication summary of their proposal addressing the identified problem areas. If a preapplication is required, the division shall provide all potential applicants with sufficient information detailing the extent of the preapplication and the criteria for review. Preapplications received in a timely manner will be presented to the council's grant review committee for screening. The committee will use the same ranking system for each preapplication. It shall be based on the criteria provided to the applicant through the division activities specified in 3.7(1). Applicants will be notified in writing of the screening decisions.

3.7(3) An application for a competitive grant shall adhere to the structure prescribed by the division. For an application to be considered, it shall be received by the designated time and meet all other requirements prescribed by the division.

3.7(4) The division shall conduct a preliminary review of each application to ensure that the applicant is eligible and the application is complete. All applications which are submitted in a timely fashion and which contain the necessary information will be presented to the council's grant review committee. This committee shall use the same rating system for each application. It shall be based on the criteria provided to the applicant through the division activities specified in 3.7(1). Representatives of the applicants may be invited to attend a public meeting where questions and answers can be exchanged. The committee shall make approval and award amount recommendations to the council. Final grant award decisions will be made by the council based upon these recommendations.

3.7(5) No member of the council shall serve on the grant review committee or otherwise participate personally through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which JJDP A funds are used, where to the member's knowledge, the member or a member of the member's immediate family, a partner, an organization in which the member is serving as an officer, director, trustee, partner, or employee or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest, or less than an arms-length transaction. If a council member's agency or organization submits an application the member shall not be present when the grant committee's recommendations are acted upon by the full council.

3.7(6) In order to promote sound administration and effectuate the intent of the program, the council may set one or more deadlines for grant applications and make awards of some or all of the funds appropriated for this program.

428—3.8(216A) Appeals.

3.8(1) Applicants submitting preproposals or full proposals in the competitive grant process have the right to appeal council or grant review committee decisions based upon a showing that the rules and procedures governing the grant selection process have not been applied properly. The appeal shall be in writing and shall be filed with the administrator within ten working days of the date of written notification of any council or grant review committee decisions.

3.8(2) All appeals shall clearly state in what manner the council or division failed in following the rules of the grant process as governed by these administrative rules or procedures outlined in the application materials provided to all applicants by the division. The request must also describe the remedy being sought.

3.8(3) The division shall not enter into any contracts with potential subgrantees until the administrator has reviewed and decided on all appeals received in accordance with subrules 3.8(1) and 3.8(2). The review will be conducted as expeditiously as possible so that all funds can be distributed in a timely fashion.

3.8(4) The procedure described in this rule shall represent the final JJAC or division action for the purpose of implementing Iowa Code chapter 17A.

428—3.9(216A) Sole source contracts. The council may determine, because of the nature of a certain problem area or its desired programmatic response, the competitive grant process would not be the most appropriate or expeditious process through which to award funds. In such cases, the council may request the division to seek out a potential subgrantee with whom it can develop a sole source contract for services. The division shall be alert to organizational conflicts of interest and noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade. The division's awarding and administration of any sole source contract shall be governed by all relevant state and federal regulations.

428—3.10(216A) Contract agreement.

3.10(1) Subgrantees and the division shall negotiate a contract concerning the application and the grant period.

3.10(2) The subgrantee may be requested to modify the original proposal in the negotiating process.

3.10(3) The subgrantee or the division may request a modification of the contract. Both parties must agree to any modification of the contract.

3.10(4) Funds are to be spent to meet the program goals as provided in the contract. Expenditures will be reimbursed pursuant to regular reimbursement procedures of the state of Iowa.

428—3.11(216A) Contract termination.

3.11(1) Termination by subgrantee. The contract may be terminated by the subgrantee at any time during the contract period by giving 30 days' notice to the division.

3.11(2) Termination by the division.

a. The division may terminate a contract upon ten days' notice when the subgrantee or any of its subcontractors fail to comply with the grant award stipulations, standards or conditions. The division may terminate a contract upon 30 days' notice when there is a reduction of funds by executive order.

b. Termination for convenience. The performance of work under the agreement may be terminated by the division in accordance with this clause in whole, or from time to time in part, whenever the division shall determine that such termination is in the best interests of the state. The division will pay all reasonable costs associated with the agreement that the subgrantee has incurred up to the date of termination. The division will not pay for any work which has not been done prior to the date of termination.

c. Termination for default. If the subgrantee fails to fulfill its obligations under this agreement properly or on time, or otherwise violates any provision of this agreement, the division may terminate the agreement by written notice to the subgrantee. The notice shall specify the acts of commissions or omissions relied on as cause for termination. All finished or unfinished products and services provided by the subgrantee shall, at the option of the division, become the state's property. The division shall pay the subgrantee fair and equitable compensation for satisfactory performance prior to receipt of notice of termination.

3.11(3) *Financial statement supplied.* Within 45 days of the termination, the subgrantee shall supply the division with a financial statement detailing all costs up to the effective date of the termination.

428—3.12(216A) Immunity of state and agencies. The subgrantee shall defend and hold harmless the state and any federal funding source for the state from liability arising from:

3.12(1) Subgrantee's performance or attempted performance of this contract; and

3.12(2) Subgrantee's activities with subcontractors and all other third parties.

428—3.13(216A) Quarterly reports. Quarterly reports on program status and financial status will be expected from subgrantees on provided forms. Failure to submit reports by the due date will result in suspension of financial payments to the subgrantee by the division until such time as the report is received. No new awards will be made for continuation programs where there are delinquent reports from prior grants.

428—3.14(216A) Records. Subgrantees shall keep statistical records of services provided and any other records as required by the division and specified in the contract.

These rules are intended to implement Iowa Code chapter 17A and sections 216A.131 to 216A.136.

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