

CHAPTER 6
RETRAINING PROGRAM
Rescinded IAB 7/8/92, effective 7/1/92

CHAPTER 7
IOWA JOBS TRAINING PROGRAM
[Prior to 1/14/87 Iowa Development Commission(520), Ch 7]
[Prior to 7/8/92, see 261—Chs 6 and 7]

261—7.1(260F) Authority. The authority for establishing rules governing the development of training projects under the Iowa jobs training Act is provided in Iowa Code chapter 260F as amended by 1997 Iowa Acts, House File 655.

261—7.2(260F) Purpose. The purpose of the Act is to foster the growth and competitiveness of Iowa's workforce and industry by ensuring that Iowa's workforce has the skills and expertise to compete with any workforce outside the state of Iowa.

261—7.3(260F) Definitions.

"Act" means Iowa Code chapter 260F as amended by 1997 Iowa Acts, House File 655.

"Apprentice" means a person who is at least 16 years of age, except where a higher minimum age is required by law, who is employed in an apprenticeable occupation, and is registered with the United States Department of Labor, Bureau of Apprenticeship and Training.

"Apprenticeable occupation" means an occupation approved for apprenticeship by the United States Department of Labor, Bureau of Apprenticeship and Training.

"Apprenticeship program" means a program registered with the U.S. Bureau of Apprenticeship and Training which contains the terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including the requirement for a written apprenticeship agreement.

"Apprenticeship sponsor" means an entity operating an apprenticeship program or in whose name an apprenticeship program is being operated, registered or approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

"Business network" means five or more businesses which are located in two or more community college districts and which share a common training need. A business network training project must have a designated lead community college, business, or organization to serve as the administrative entity that will coordinate the training program.

"Community college" means a community college established under Iowa Code chapter 260C.

"Community college consortium" means two or more businesses located in the same community college district which share a common training need.

"Department" means the Iowa department of economic development.

"High technology apprenticeship program" means a program that includes the definitions of apprenticeship program and high technology training.

"High technology training" means training that provides knowledge or skills that are clearly recognized throughout the industry as technologically up to date or advanced for a particular occupation.

"Lead apprenticeship sponsor" means an apprenticeship sponsor that is the applicant for an apprenticeship project.

“Lead business” means a business that is the applicant for a business network project.

“Lead organization” means a trade organization, labor organization or other incorporated entity representing a group of businesses that is the applicant for a business network project.

“Program costs” means all necessary and incidental costs of providing program services.

“Supplier network training” means training provided to five or more businesses whose common training need results from a requirement of one common customer or business.

261—7.4(260F) Program funding.

7.4(1) Program funds consist of any money allocated by department board for the purpose of this program, all repayments of loans or other awards or recaptures of awards, and earned interest, including interest earned on program funds held by the community colleges.

7.4(2) A community college 260F account is established in the department. The distribution of funds in this account, to the community colleges, shall be based upon the percentages prescribed in this rule, unless the general assembly stipulates otherwise in the appropriation process.

7.4(3) Seventy-five percent of the funds from the community college 260F account shall be distributed to each community college on a percentage basis using the distribution formula established in Iowa Code section 260F.6B.

7.4(4) Fifteen percent of the funds from the community college 260F account shall be distributed to community colleges for high technology apprenticeship programs based upon related eligible contact hours under the programs administered during the prior fiscal year as determined by the department of education. Contact hours generated in on-the-job training experiences are not eligible for consideration for apprenticeship funding.

7.4(5) Ten percent of the funds from the community college 260F account shall be held by the department to fund community college-sponsored business network training projects and shall be available on a first-come, first-served basis, based on the date an application is received by the department.

7.4(6) Any unexpended or uncommitted funds remaining in the community college 260F account on May 1 of the fiscal year shall revert to a general account to be available on a first-come, first-served basis, based on the date an application is received by the department.

7.4(7) A department-sponsored business network training project account consisting of funds allocated by the department board is established in the department to fund department-sponsored business network training projects.

7.4(8) A department-sponsored high technology apprenticeship project account consisting of funds allocated by the department board is established in the department to fund department-sponsored high technology apprenticeship training projects.

261—7.5(260F) Funding for projects which include one business.

7.5(1) The maximum award which may be approved for each project at a business site is \$25,000.

7.5(2) A business site may be approved for multiple projects, but the total of the awards for two or more projects shall not exceed \$50,000 within a three-year period. The three-year period shall begin with the department approval date of the first project approved within the three-year period.

7.5(3) Awards shall be made in the form of forgivable loans.

7.5(4) Financial assistance awarded to a project must be based on the actual cost of allowable services as identified in 261—7.9(260F).

7.5(5) Funds requested must be commensurate with training needs. Program funds shall not be used to cash flow a business.

7.5(6) Community colleges shall issue the proceeds of an award to a business on a reimbursement basis.

261—7.6(260F) Funding for projects which include multiple businesses.

7.6(1) A community college consortium of two or more businesses as defined in 261—7.3(260F) is eligible for a maximum award of \$50,000 per training project.

7.6(2) A community college-sponsored business network training project as defined in 261—7.3(260F) is eligible for a maximum project award of \$50,000 from each of the participating community colleges.

7.6(3) Department-sponsored business network training projects as defined in 261—7.3(260F) are not subject to a funding maximum.

7.6(4) Participation in a community college consortium or business network does not affect a business site's financial eligibility for individual project assistance.

261—7.7(260F) Funding for high technology apprenticeship programs.

7.7(1) A community college high technology apprenticeship program as defined in 261—7.3(260F) may be funded at the discretion of each specific community college at an amount up to, but not exceeding, the specific community college's apprenticeship distribution for the year.

7.7(2) Department-sponsored high technology apprenticeship programs as defined in 261—7.3(260F) are not subject to a funding maximum.

261—7.8(260F) Matching funds requirement.

7.8(1) An apprenticeship sponsor, business, community college consortium, or business network shall provide matching funds in order to be eligible for a program award.

7.8(2) An apprenticeship sponsor, business, community college consortium, or business network requesting a program award of less than \$5,000 shall provide in-kind matching funds.

7.8(3) An apprenticeship sponsor, business, community college consortium, or business network requesting a program award of \$5,000 or more shall provide cash to pay at least 25 percent of the total project cost, including training and administration costs.

7.8(4) In-kind matching funds include employee wages paid by the business during the training period, the value of business-provided facilities and equipment used for training, or the value of any other resources provided by the business or apprenticeship sponsor to facilitate the training program.

261—7.9(260F) Use of program funds.

7.9(1) The following costs associated with the administration of any project are eligible for program funding:

a. Community college administrative costs associated with the development and operation of a project, not to exceed the rate charged for a 260E project.

b. Legal fees.

7.9(2) The following costs associated with the provision of services for any project are eligible for program funding:

a. Vocational and skill assessment testing.

b. Adult basic education.

c. Job-related training.

d. Cost of company, college, or contracted trainer or training services.

e. Training-related materials, equipment, software, and supplies.

f. Lease or rental of training facilities.

g. Training-related travel and meals.

h. Subcontracted services.

i. Contracted or professional services.

7.9(3) Reimbursement of employee wages while in training is not allowed.

7.9(4) Production equipment, when used for training, may be an allowable cost. The cost of equipment used in training but subsequently used in production shall be prorated with the percentage of "used in production" cost paid by the business.

7.9(5) A community college may use funds awarded to a project to cover reasonable administrative costs and legal fees for that project when such costs are not covered by application fees or interest earnings. This includes administrative and legal costs incurred for a project that is canceled after funds are released to the community college but before being released to the business.

7.9(6) A community college may not use funds from one project's program award to cover any costs incurred by another project.

261—7.10(260F) Use of 260F earned interest.

7.10(1) The community college is authorized to use interest earned on program funds to pay administrative costs incurred as a result of administering the program. Administrative costs include all costs incurred from the time the application process commences minus any costs covered by application fees paid by applicants.

7.10(2) The community college is authorized to use interest earned on program funds to enable a business which received small business new jobs training assistance prior to July 1, 1996, to meet its debt service obligation when the business is unable to generate sufficient withholding and property tax revenue to fulfill its obligation.

7.10(3) Earned interest which has not been spent by the end of any state fiscal year shall be re-funded to the department within ten days of the end of the state fiscal year. The community college may designate and carry forward specified interest funds, as permitted by these rules, for identified payments which will occur during the next state fiscal year.

261—7.11(260F) Application fee.

7.11(1) Community colleges may charge each applicant an application fee to cover part or all administrative and legal costs incurred prior to project funding.

7.11(2) A community college which elects to charge an application fee must charge each business which applies a same or equitable fee.

261—7.12(260F) Separate account. The community college shall establish a separate program account in order to document all program transactions and from which repayments for loans shall be made to the department.

261—7.13(260F) Eligible business.

7.13(1) A business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, assembling products, warehousing, wholesaling, or conducting research and development is eligible. A business engaged in the provision of services must have customers outside of Iowa to be eligible.

7.13(2) The business site to receive training must be located in Iowa.

7.13(3) The project cannot be economically funded under Iowa Code chapter 260E.

261—7.14(260F) Ineligible business.

7.14(1) A business which is engaged in retail sales or provides health or other professional services is ineligible.

7.14(2) A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operation to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

7.14(3) A business which is involved in a strike, lockout, or other labor dispute in Iowa is ineligible.

261—7.15(260F) Eligible employee.

7.15(1) An employee for whom training is planned must hold a current position intended by the employer to exist on an ongoing basis with no planned termination date.

7.15(2) Training is available only to an employee who is hired by the business, is currently employed by a business, and for whom the business pays withholding tax.

261—7.16(260F) Ineligible employee.

7.16(1) A replacement worker who is hired as a result of a strike, lockout, or other labor dispute is ineligible for program services.

7.16(2) Training is not available for an employee hired as a temporary worker.

261—7.17(260F) Agreement of intent.

7.17(1) A college and a business or apprenticeship sponsor may, but are not required to, enter into an agreement of intent.

7.17(2) A college and a business which enter into an agreement of intent shall use Agreement of Intent, Form 260F-2. A college and an apprenticeship sponsor which enter into an agreement of intent shall use Apprenticeship Agreement Intent, Form 260F-2A.

7.17(3) An agreement of intent shall remain in effect for a maximum of one calendar year from the date of the agreement. An agreement of intent for one project does not establish the commencement date for subsequent projects.

261—7.18(260F) Project commencement date. The earliest date on which program funds may be used to pay training expenses incurred by the project is the effective date of the agreement of intent or the date the application is received by the department, whichever is first.

261—7.19(260F) Application process.

7.19(1) An application for training assistance must be submitted to the department by a community college on behalf of a business or apprenticeship sponsor. An application shall not be accepted by the department if submitted directly by a business or apprenticeship sponsor.

7.19(2) Community colleges shall use Application for Assistance, Form 260F-1, to apply for 260F business assistance. Apprenticeship Application for Assistance, Form 260F-1D, shall be used for apprenticeship assistance.

7.19(3) Required contents of the application will be described in the application package.

7.19(4) Applications must be submitted to Iowa Department of Economic Development, Division of Administration, Workforce Development Programs, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address.

7.19(5) The department will score applications according to the criteria specified in 261—7.20(260F).

7.19(6) To be funded, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified elsewhere in these rules.

7.19(7) The department may approve, reject, defer, or refer an application to another training program.

7.19(8) The department reserves the right to require additional information from the business or apprenticeship sponsor.

7.19(9) Application approval shall be contingent on the availability of funds. The department shall reject or defer an application if funds are not available.

261—7.20(260F) Application scoring criteria.

7.20(1) The criteria used for scoring 260F business applications and the points for each criteria are as follows:

- a.* More than 50 percent of the business's sales are out of state, 5 points.
- b.* More than 50 percent of the business's operating expenditures are spent within the state of Iowa, 5 points.
- c.* The number of the business's in-state competitors is low, 5 points.
- d.* The business's products have increased or will increase the business's customer base in Iowa, 5 points.
- e.* The business's products have resulted in or will result in a decrease in the importation of foreign-made goods into the USA, 5 points.
- f.* The majority of the business's suppliers are located in Iowa, 5 points.
- g.* The business's current products help diversify Iowa's economy, 5 points.
- h.* The business indicates the potential for future growth and product diversification, 5 points.
- i.* The business's average wage rate for all employees is above the average wage rate in the county or region where the business is located, 5 points. "Region" is the service delivery area as defined in Iowa Code section 84B.2.
- j.* The business provides employee health insurance and other benefits, 5 points.
- k.* The majority of the business's employees are employed full-time, 5 points.
- l.* New skills which employees acquire from the training program will increase the marketability of their skills, 10 points.
- m.* The application has established the business's need for training, 10 points.
- n.* The 260F cost of training per employee does not exceed comparable costs for training at a state of Iowa community college or university, 5 points.
- o.* The business's contribution to the training project is above the minimum program match requirement, 5 points.
- p.* The application documents that all considerations, including funding required to begin the training project, have been addressed, 5 points.
- q.* The application establishes a positive training impact on the business's ability to survive, 10 points.

To be funded, applications must receive a minimum score of 65 out of 100 points and meet all other applicable eligibility criteria.

7.20(2) The criteria used for scoring a department-sponsored business network or community college business consortium or community college-sponsored business network application, and the points for each criterion are as follows:

- a.* The training will have a positive impact on the skills, knowledge and abilities of trainees, 29 points.

b. The training will help improve the competitive stance of participating businesses or the industry for which training is being provided, 28 points.

c. The training will result in economic benefits for the state, 28 points.

d. The average of the average wage rates for the businesses participating in the project is above the state average wage rate, which will be computed using the current county average wage rates, 10 points.

e. The project cost of training per employee does not exceed comparable costs for training at a state of Iowa community college or university, 5 points.

To be funded, applications must receive a minimum score of 65 out of 100 points and meet all other applicable eligibility criteria. Department-sponsored business network applications which receive a minimum score of 65 out of 100 points will be referred to the IDED board for approval.

7.20(3) The criteria used for scoring a community college-sponsored high technology apprenticeship or a department-sponsored high technology apprenticeship application and the points for each criterion are as follows:

a. The application represents high technology area training, 20 points.

b. The application shall identify the occupation or occupations for which training will be provided from the list of occupations in the Iowa workforce development annual wage survey. The most recent Iowa workforce development Iowa statewide wage survey average wage rate for the occupation(s) as identified shall be compared to the lowest of the average wage rate for the county or region where the training is to be provided. Ten points will be awarded if the wage rate for the occupation(s) exceeds the lowest of the average wage rates for the county or region. If the program will be providing training for more than one occupation or be conducted in more than one location, the points shall be awarded on a prorated basis by occupation and location. "Region" is the service delivery area as defined in Iowa Code section 84B.2.

c. New skills which employees acquire from the training program will increase the marketability of successful program participants, 20 points.

d. The application has established the need for training, 20 points.

e. The cost of training per trainee does not exceed comparable costs for training at a state of Iowa community college or university, 5 points.

f. The application documents that all considerations, including funding required to begin the training project, have been addressed, 10 points.

g. The application establishes a positive impact on the state's workforce competitiveness, 15 points.

To be funded, applications must receive a minimum score of 65 out of 100 points and meet all other applicable eligibility criteria. Department-sponsored high technology apprenticeship applications which receive a minimum score of 65 out of 100 points will be referred to the IDED board for approval.

261—7.21(260F) Training contract.

7.21(1) A community college shall enter into a training contract with the business(es), lead business, lead organization, apprenticeship sponsor(s), or lead apprenticeship sponsor within 90 days of written notice of application approval from the department, using Training Contract, Form 260F-4, for 260F business-driven projects and using Form 260F-4D for apprenticeship projects.

7.21(2) A business or apprenticeship sponsor shall not modify any provision of the contract without the written approval of the community college.

7.21(3) The community college, with the written consent of the business or apprenticeship sponsor, has the authority to modify all provisions of the contract except for 260F business, business network and consortium project modifications which result in a reduction of the number of employees to be trained or which significantly change the training program.

7.21(4) The community college and the business or apprenticeship sponsor are authorized to change the ending date of training, training provider, or other minor modifications to the training program. A signed copy of the modification must be sent to the department.

7.21(5) Modifications of 260F business, business network and consortium projects which result in a reduction of the number of employees to be trained or change the training program content must be approved by the department, community college, and business.

7.21(6) The contract shall not be modified in any way that would result in a violation of the Act.

7.21(7) Lead businesses, lead apprenticeship sponsors and lead organizations that choose to be the only signatory on the training contract for a department-sponsored business network, community college-sponsored business network, department-sponsored apprenticeship or community college-sponsored apprenticeship project shall be responsible for all default and reporting requirements on behalf of the other businesses or apprenticeship sponsors participating in the project.

261—7.22(260F) Special requirements for community college consortium projects.

7.22(1) The community college shall submit Consortium Application for Assistance, Form 260F-1A, to the department for project approval.

7.22(2) The community college shall enter into a training contract with the consortium within 90 days of written notice of application approval from the department, using Consortium Training Contract, Form 260F-4A.

7.22(3) All default provisions specified in 261—7.27(260F) shall apply to consortium projects.

7.22(4) In the event of a default, a financial penalty will be assigned by the department to the consortium business or businesses identified by the community college as being responsible for the default.

7.22(5) Each business that participates in the consortium shall complete a Final Performance Report, Form 260F-5, at the completion of training as a condition of the loan's being forgiven.

261—7.23(260F) Special requirements for community college-sponsored business network projects.

7.23(1) A business network must have a designated community college to serve as the project coordinator.

7.23(2) The designated community college shall serve as the network's representative and shall serve as the department's contact regarding all project matters.

7.23(3) The participating community colleges shall select one college as the project's designated organization and representative.

7.23(4) Business Network Application for Assistance, Form 260F-1B, shall be signed by each participating community college and shall be submitted by the designated community college to the department for project approval.

7.23(5) The designated community college shall enter into a training contract with the business network within 90 days of written notice of application approval from the department, using Business Network Training Contract, Form 260F-4B.

7.23(6) All department communications concerning a business network project, including notice of project approval or denial and issuance of financial awards, shall be with the designated community college.

7.23(7) All default provisions specified in 261—7.27(260F) shall apply to college-sponsored business network training projects.

7.23(8) In the event of a default, a financial penalty will be assigned by the department to the network business or businesses identified by the designated community college as being responsible for the default.

7.23(9) Each business that participates in the network shall complete a Final Performance Report, Form 260F-5, at the completion of training as a condition of the loan's being forgiven.

7.23(10) In the case of business network training assistance, which takes the form of supplier network training as defined in 261—7.3(260F), the department shall make a good faith effort to determine the probability that the proposed project will cause the displacement of employees of existing Iowa businesses. Any business network training project which takes the form of supplier network training and would have the effect of displacing employees of existing Iowa end-product manufacturers shall not be approved.

261—7.24(260F) Special requirements for department-sponsored business network projects.

7.24(1) Eligible applicants include a group of businesses who will be the beneficiaries of the proposed training program, a trade association, a labor organization, or other incorporated entity representing a group of businesses.

7.24(2) Each project shall designate a lead organization or business which shall serve as the project's representative.

7.24(3) An individual project may not be funded for more than three fiscal years.

7.24(4) Administrative costs shall be limited to 15 percent of the total project cost.

7.24(5) All administrative costs must be directly related to the project's operation, including but not limited to the costs of schedule coordination, securing facilities, and contracting with training providers.

7.24(6) The lead organization or business shall submit Business Network Application for Assistance, Form 260F-1C, to the department for project approval.

7.24(7) Applications shall be accepted on a first-come, first-served basis.

7.24(8) Application review shall be based on the positive impact that training will have on the skills, knowledge, and abilities of employees, improved competitive stance of the participating businesses, and economic benefits gained by the state.

7.24(9) Application approval is at the discretion of the department board and shall consider recommendations made by department staff.

7.24(10) The department shall enter into a training contract with the business network within 90 days of written notice of application approval from the department, using Business Network Training Contract, Form 260F-4C.

7.24(11) All default provisions specified in 261—7.27(260F) shall apply to college-sponsored business network training projects.

7.24(12) In the event of a default, a financial penalty will be assigned by the department to the business or businesses identified responsible for the default.

7.24(13) The lead business or organization shall submit quarterly progress reports for the duration of the project which detail training progress to date.

7.24(14) Each business that participates in the business network shall complete a Final Performance Report, Form 260F-5, at the completion of training as a condition of the loan's being forgiven.

7.24(15) Each project shall receive a two-month advance of total project funds to cover initial costs incurred, the use of which must be documented to the department, after which documented costs incurred will be reimbursed on a monthly basis.

7.24(16) In the case of business network training assistance, which takes the form of supplier network training as defined in 261—7.3(260F), the department shall make a good faith effort to determine the probability that the proposed project will cause the displacement of employees of existing Iowa businesses. Any business network training project which takes the form of supplier network training and would have the effect of displacing employees of existing Iowa end-product manufacturers shall not be approved.

261—7.25(260F) Special requirements for community college-sponsored high technology apprenticeship projects.

7.25(1) An apprenticeship sponsor must have a designated community college to serve as the project coordinator.

7.25(2) The designated community college shall serve as the apprenticeship sponsor's representative and shall serve as the department's contact regarding all project matters.

7.25(3) If more than one community college is involved in the project, the participating community colleges shall designate one college as the project's representative.

7.25(4) Apprenticeship Application for Assistance, Form 260F-1D, shall be signed by the community college or, in the case of a multicollege project, by each participating community college and shall be submitted by the community college to the department for project approval.

7.25(5) The community college shall enter into a training contract with the apprenticeship sponsor within 90 days of written notice of application approval from the department, using Apprenticeship Training Contract, Form 260F-4D.

7.25(6) All department communications concerning an apprenticeship project, including notice of project approval or denial and issuance of financial awards, shall be with the community college.

7.25(7) All default provisions specified in 261—7.27(260F) shall apply to college-sponsored apprenticeship training projects.

7.25(8) In the event of a default, a financial penalty will be assigned by the department to the apprenticeship sponsor identified by the designated community college as being responsible for the default.

7.25(9) Each apprenticeship sponsor that participates in the project shall complete a Final Performance Report, Form 260F-5A, at the completion of training as a condition of the loan's being forgiven.

261—7.26(260F) Special requirements for department-sponsored high technology apprenticeship projects.

7.26(1) Eligible applicants include any organization that is approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training to provide an apprenticeship program. This group shall be referred to as an apprenticeship sponsor.

7.26(2) Administrative costs shall be limited to 15 percent of the total project cost.

7.26(3) All administrative costs must be directly related to the project's operation, including but not limited to the costs of schedule coordination, securing facilities, and contracting with training providers.

7.26(4) The apprenticeship sponsor shall submit an Apprenticeship Application for Assistance, Form 260F-1E, to the department for project approval.

7.26(5) Applications shall be accepted on a first-come, first-served basis.

7.26(6) Application approval is at the discretion of the department board and shall consider recommendations made by department staff.

7.26(7) The department shall enter into a training contract with the apprenticeship sponsor within 90 days of board approval, using Apprenticeship Training Contract, Form 260F-4E.

7.26(8) All default provisions specified in 261—7.27(260F) shall apply to college-sponsored apprenticeship training projects.

7.26(9) In the event of a default, a financial penalty will be assigned by the department to the business or apprenticeship sponsor identified as responsible for the default.

7.26(10) The apprenticeship sponsor shall submit quarterly progress reports for the duration of the project which detail training progress to date.

7.26(11) Each apprenticeship sponsor that participates in the high technology apprenticeship program shall complete a Final Performance Report, Form 260F-5A, at the completion of training as a condition of the loan's being forgiven.

7.26(12) Each project shall receive a two-month advance of total project funds to cover initial costs incurred, the use of which must be documented to the department, after which documented costs incurred will be reimbursed on a monthly basis.

261—7.27(260F) Events of default.

7.27(1) A business or apprenticeship sponsor fails to complete the training project within the agreed period of time as specified in the training contract. Such business or apprenticeship sponsor shall be required to repay 20 percent of total project funds expended by the community college and the business.

7.27(2) A business or apprenticeship sponsor fails to train the agreed number of employees as specified in the training contract. Such business or apprenticeship sponsor shall be required to repay a proportionate amount of total project funds expended by the community college and the business or apprenticeship sponsor. The proportion shall be based on the number of employees not trained compared to the number of employees to have been trained.

7.27(3) If both 7.27(1) and 7.27(2) occur, both penalties shall apply.

7.27(4) A business or apprenticeship sponsor fails to comply with any requirements contained in the training agreement. The business or apprenticeship sponsor shall be sent written notice by the community college which specifies the issue(s) of noncompliance and shall be allowed 20 days from the date notice is sent to effect a cure. If noncompliance is of such a nature that a cure cannot be reasonably accomplished within 20 days, the community college has the discretion to extend the period of cure to a maximum of 60 days.

7.27(5) A business or apprenticeship sponsor ceases or announces the cessation of operations at the project site prior to completion of the training program.

7.27(6) A business or apprenticeship sponsor directly or indirectly makes any false or misleading representations or warranties in the program application or training agreement, reports, or any other documents which are provided to the community college or the department.

7.27(7) A business or apprenticeship sponsor acts in any manner contrary to, or fails to act in accordance with, any provision of the training contract.

7.27(8) A business takes corporate action to effect any of the preceding conditions of default.

261—7.28(260F) Options and procedures on default.

7.28(1) The community college shall notify the department within five working days, using Notice of Possible Default, Form 260F-6, whenever the community college determines that an event of default has occurred or is likely to occur.

7.28(2) The community college shall document its efforts to reconcile the condition(s) responsible for the default and shall provide the department with copies of all related correspondence and documents of the community college and the business or apprenticeship sponsor.

7.28(3) The community college shall notify the department, using Declaration of Default, Form 260F-7, when it has determined that an event of default cannot be cured.

7.28(4) When notice of failure to cure the default is received from the community college, the department shall communicate with the business or apprenticeship sponsor, in writing, in an attempt to resolve the default.

7.28(5) When the department's efforts to reconcile are successful, the department shall notify the community college, in writing, to continue project operations. Continuation of project operations may be subject to new conditions imposed by the department as part of the reconciliation.

7.28(6) When the department's efforts to reconcile are unsuccessful and upon the department's request, the community college shall assign the agreement to the department for appropriate proceedings at which time the department shall institute collection procedures or notify the attorney general to initiate appropriate legal actions.

7.28(7) When a community college assigns an agreement to the department for a project declared to be in default, the community college shall return all remaining 260F funds to the department within 45 days of assignment.

261—7.29(260F) Remedies upon default.

7.29(1) When a community college determines that a business or apprenticeship sponsor is in default, and the default has not been cured within the time period stated in the contract, the school is authorized to withhold training funds and payments to the business or apprenticeship sponsor, without notice to the business or apprenticeship sponsor.

7.29(2) The attorney general may take whatever action at law or in equity as necessary and desirable to satisfy the default, including pursuit of a tax sale of the employer's business property as provided for under Iowa Code section 260F.3(6).

7.29(3) No demand of amount due, from the community college to the business or apprenticeship sponsor, written or otherwise, is required to establish the business's or apprenticeship sponsor's financial liability.

7.29(4) No remedy conferred upon or reserved to the community college, the department, or the attorney general by the Act, these rules, or the training agreement is intended to be exclusive of any other current or future remedies existing in law, in equity, or by statute.

7.29(5) Any delay or omission by the community college, the department, or the attorney general, to exercise any right or power prescribed by the Act, these rules, or the training agreement does not relinquish or diminish authority to act and does not constitute a waiver of default status. Any such right or power may be exercised at any time required and as often as may be deemed expedient.

7.29(6) Unless required by these rules, neither the community college, department, nor attorney general is required to provide written or other notice to the business or apprenticeship sponsor regarding any circumstance related to and including a declaration of an event of default.

7.29(7) In the event any requirement of the Act, these rules, or the training agreement, relating to a default, should be breached by either party and then waived by the other party, such waiver shall be limited to the specific breach being waived and shall have no bearing on any subsequent breach.

261—7.30(260F) Return of unused funds. The community college shall return all unused funds to the department within 45 days of project completion or within 45 days after being notified by the department that a project is in default.

261—7.31(260F) Open records. Information submitted to the department is subject to Iowa Code chapter 22, the public records law. Applications for training funds submitted to the department are available for public examination. Information which the business believes contains trade secrets recognized and protected by such as law, or the release of which would give an advantage to competitors and serves no public purpose or which meets other provisions for confidential treatment as authorized in Iowa Code section 22.7, shall be kept confidential. The department has adopted, with certain exceptions described in 261—Chapter 100, Uniform Rules on Agency Procedure, relating to public records and fair information practices. The uniform rules are printed in the first Volume of the Iowa Administrative Code. Uniform rule X.5 describes how a person may request a record to be treated as confidential and withheld from public examination. Businesses requesting confidential treatment of certain information submitted to the department shall follow the procedures described in the uniform rule. The department will process such requests as outlined in uniform rule X.5 and 261—Chapter 100.

261—7.32(260F) Required forms. Use of the following forms by the community college is required:

1. Application for Assistance, Form 260F-1;
2. Consortium Application for Assistance, Form 260F-1A;
3. Business Network Application for Assistance (Community College), Form 260F-1B;
4. Business Network Application for Assistance (Department), Form 260F-1C;
5. Apprenticeship Application for Assistance (Community College), Form 260F-1D;
6. Apprenticeship Application for Assistance (Department), Form 260F-1E;
7. Agreement of Intent, Form 260F-2;
8. Apprenticeship Agreement of Intent, Form 260F-2A;
9. Request for Release of Funds, Form 260F-3;
10. Training Contract, Form 260F-4;
11. Consortium Training Contract, Form 260F-4A;
12. Business Network Training Contract (Community College), Form 260F-4B;
13. Apprenticeship Training Contract (Community College), Form 260F-4D;
14. Business Network Training Contract (Department), Form 260F-4C;
15. Apprenticeship Training Contract (Department), Form 260F-4E;
16. Performance Report, Form 260F-5;
17. Apprenticeship Performance Report, Form 260F-5A;
18. Notice of Possible Default, Form 260F-6;
19. Declaration of Default, Form 260F-7.

These rules are intended to implement Iowa Code chapter 260F as amended by 1997 Iowa Acts, House File 655.

- [Filed emergency 7/26/85—published 8/14/85, effective 7/26/85]
- [Filed emergency 12/19/86—published 1/14/87, effective 12/19/86]
- [Filed 9/30/88, Notice 7/27/88—published 10/19/88, effective 11/23/88]
- [Filed 11/22/89, Notice 10/18/89—published 12/13/89, effective 1/17/90]
- [Filed 11/20/90, Notice 9/5/90—published 12/12/90, effective 1/16/91]
- [Filed 12/21/90, Notice 10/17/90—published 1/9/91, effective 2/13/91]
- [Filed emergency 6/21/91 after Notice 4/17/91—published 7/10/91, effective 6/21/91]
- [Filed emergency 6/19/92—published 7/8/92, effective 7/1/92]
- [Filed 9/23/92, Notice 7/8/92—published 10/14/92, effective 11/18/92]
- [Filed 1/24/96, Notice 12/6/95—published 2/14/96, effective 3/20/96]
- [Filed emergency 6/28/96—published 7/17/96, effective 7/1/96]
- [Filed 9/20/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]
- [Filed emergency 10/23/97 after Notice 9/10/97—published 11/19/97, effective 10/24/97]

CHAPTER 8
SELF-EMPLOYMENT LOAN PROGRAM
Renumbered as 261—Ch 51, IAB 7/19/95

CHAPTER 9
SELF-EMPLOYMENT BUSINESS ASSISTANCE
Renumbered as 261—Ch 52, IAB 7/19/95

CHAPTER 10
LABOR-MANAGEMENT COOPERATION PROGRAM
Transferred to 345—Ch 11, IAB 7/17/96, effective 7/1/96, pursuant to 1996 Iowa Acts, Senate File 2409.