

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts new Chapter 62, “State Standards for Progression in Reading,” Iowa Administrative Code.

The purpose of this new chapter is to implement Iowa Code sections 256.7(31) and 279.68. All rules in this chapter shall be construed and applied to meet the following standard: all actions under this chapter must provide reasonable expectation that a student’s progress toward reading proficiency is sufficient to master appropriate grade four level reading skills prior to the student’s promotion to grade four. Enactment of funding for reading programs by the General Assembly in 2013 Iowa Acts, House File 604, triggered the provisions of the law, requiring the need for rules on this subject.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the December 11, 2013, Iowa Administrative Bulletin as ARC 1245C. Public comments were allowed until 4:30 p.m. on January 3, 2014. A public hearing was held on that date, and 45 persons attended. Written testimony of 168 pages was received, and 17 citizens spoke at the public hearing. Advocates of families with dyslexic children wanted to include dyslexia by name in the rules. Educational organizations and other commenters wanted the rules to be less prescriptive on reading interventions. Also, commenters from both groups expressed dissatisfaction with the law that allows retention to take place.

These rules are modified from the Notice. Changes in subrules 62.3(6) and 62.6(3) and paragraph 62.6(1)“a” and new subrule 62.10(4) reflect public comment that requested less prescriptive measures in some areas of the rules.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code sections 256.7(31) and 279.68.

These rules shall become effective March 26, 2014.

The following amendment is adopted.

Adopt the following new 281—Chapter 62:

CHAPTER 62

STATE STANDARDS FOR PROGRESSION IN READING

281—62.1(256,279) Purpose. The purpose of this chapter is to implement Iowa Code section 279.68. All rules in this chapter shall be construed and applied to meet the following standard: all actions under this chapter must provide reasonable expectation that a student’s progress toward reading proficiency is sufficient to master appropriate grade four level reading skills prior to the student’s promotion to grade four.

281—62.2(256,279) Assessment of reading proficiency. All school districts shall assess reading proficiency of all students, as required by this rule.

62.2(1) Assessment at beginning of school year. A school district shall assess all students enrolled in kindergarten through grade three at the beginning of each school year for the students’ level of reading or reading readiness.

62.2(2) Subsequent assessments throughout school year. A school district shall provide to all students additional, brief assessments of reading achievement in a manner required by the department, using assessments that meet the standards described in subrule 62.2(5).

62.2(3) Progress-monitoring instruments. For students identified as having a substantial deficiency in reading, as well as students who are at risk of a substantial deficiency in reading, a school district shall monitor the students’ progress in reading with instruments that meet the standards in subrule 62.2(5), in at least a frequency required by the department.

62.2(4) *Statewide or locally determined assessments.* Assessments may be locally determined or statewide, provided that all assessments for purposes of implementing this chapter meet the standards described in subrule 62.2(5).

62.2(5) *Standards for approval for assessments.* Any assessment of reading or reading readiness required by this rule and used to implement this chapter shall meet the following minimum standards before use by a school district.

a. Standards for all assessments. Any assessment used under this chapter, including instruments described in paragraphs 62.2(5) “b” and “c,” shall meet department-adopted minimum standards for reliability and validity, at the appropriate grade level and for the skills assessed. In addition, all assessments must have information available concerning administration time per student, access to student data after completion, and amount of teacher training required.

b. Standards for universal-screening instruments. Any assessment used for universal-screening purposes under this chapter shall meet department-adopted minimum standards for the following statistical measures: area under the curve and specificity/sensitivity.

c. Standards for progress-monitoring instruments. Any assessment used for progress-monitoring purposes under this chapter shall meet department-adopted standards for number of forms of demonstrated equivalence and for the following statistical measure: reliability of slope.

d. Department publication of approved assessments. The department shall annually publish or update a list of assessments approved pursuant to this subrule. Approved assessments will have a demonstrated ability to predict future reading performance.

62.2(6) *Basic levels of reading proficiency on approved assessments.* The department shall determine benchmarks for basic levels of reading proficiency to be used with approved assessments based on the ability to predict meaningful future outcomes of a student’s reading performance that is sufficient to master appropriate grade four reading skills prior to the student’s promotion to grade four.

62.2(7) *Assessment measures.* Assessments administered to implement this chapter, when taken as a whole, shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

62.2(8) *Noncompliant assessments.* Assessments that do not meet the requirements of this rule shall not be used by any school district to implement this chapter.

281—62.3(256,279) Tools for evaluating and reevaluating reading proficiency. The department identifies the following attributes of tools that may be used in evaluating and reevaluating reading proficiency.

62.3(1) *Locally determined or statewide assessments.* In evaluating and reevaluating students who are or may be deficient in reading, school districts shall use assessments that meet the standards referenced in subrule 62.2(5).

62.3(2) *Alternative assessments.* If a school district determines, based on the clear and unique facts of a particular student’s case, that a particular student requires an alternative assessment to determine proficiency in reading, in addition to the assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1), the alternative assessment shall be founded on scientifically based research and shall be reasonably calculated to provide equivalent information about the student’s reading, in addition to information provided by the assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1).

62.3(3) *Portfolio reviews.* School districts may review a portfolio of a student’s work to determine reading proficiency. Portfolio reviews must be conducted using standard review criteria that are founded on scientifically based research. A portfolio review may be used along with assessments required in rule 281—62.2(256,279) and subrule 62.3(1) but shall not be used in lieu of such assessments. The department shall maintain a list of portfolio review criteria that are adequate under this subrule.

62.3(4) *Teacher observation.* A student may initially be identified as having a substantial deficiency in reading proficiency based on teacher observation. A teacher observation under this subrule shall be based on department-approved observation criteria. Teacher observation shall not be used to determine that a student continues to have a substantial deficiency in reading.

62.3(5) *Other tools.* The department may identify additional tools for use in evaluating and reevaluating reading proficiency, so long as those tools are founded on scientifically based research.

62.3(6) *Alternate assessment.* If an individual with a disability has been determined to require an alternate assessment aligned to alternate academic achievement standards in reading, pursuant to rule 281—41.320(256B,34CFR300), that individual shall receive such alternate assessment. The progress monitoring required by the alternate assessment in reading required for such an individual shall be deemed to satisfy the universal screening and progress monitoring requirements of rule 281—62.2(256,279).

62.3(7) *Noncompliant tools.* Tools that do not meet the requirements of this rule shall not be used by any school district to implement this chapter.

281—62.4(256,279) Identification of a student as having a substantial deficiency in reading. A school district shall follow this rule in determining whether a student in kindergarten through grade three has a substantial deficiency in reading.

62.4(1) *Definition of “substantial deficiency in reading.”* A school district shall determine that a student has a “substantial deficiency in reading” if, based on the requirements of this chapter, the student’s reading is below a standard set on an approved assessment pursuant to subrule 62.2(6) and the student’s progress on a measure that meets the requirements of this chapter is minimal.

62.4(2) *Determination of a substantial deficiency in reading.*

a. In initially determining whether a student has a substantial deficiency in reading as defined in subrule 62.4(1), the school district shall consider assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1) or teacher observations that meet the criteria referenced in subrule 62.3(4).

b. In determining whether a student continues to have a substantial deficiency in reading, a school district shall consider assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1), with specific attention given to progress-monitoring results under subrule 62.2(3).

62.4(3) *Services offered to all students with a substantial deficiency in reading.* A school district shall provide intensive reading instruction to any student who exhibits a substantial deficiency in reading, as defined in subrule 62.4(1). A school district shall continue to provide the student with intensive reading instruction until the reading deficiency is remediated. All services provided under this subrule shall comply with rule 281—62.6(256,279).

62.4(4) *Notice to parents.* The parent or guardian of any student in kindergarten through grade three identified as having a substantial deficiency in reading, as defined in subrule 62.4(1), shall be notified at least annually in writing of the following:

- a.* That the child has been identified as having a substantial deficiency in reading;
- b.* A description of the services currently provided to the child;
- c.* A description of the proposed supplemental instructional services and supports that the school district will provide to the child that are designed to remediate the identified area of reading deficiency; and
- d.* Strategies for parents and guardians to use in helping the child succeed in reading proficiency, including but not limited to the promotion of parent-guided home reading.

281—62.5(256,279) Intensive summer reading program.

62.5(1) *General.* Beginning May 1, 2017, unless the school district is granted a waiver pursuant to subrule 62.5(5), if a student’s reading deficiency is not remediated by the end of grade three, as demonstrated by scores on a locally determined or statewide assessment as provided in subrule 62.4(2), the school district shall notify the student’s parent or guardian that the parent or guardian may enroll the student in an intensive summer reading program offered in accordance with this rule.

62.5(2) *Parent or guardian does not enroll child in intensive summer reading program.* If the parent or guardian does not enroll the student in the intensive summer reading program and the student is ineligible for the good-cause exemption under rule 281—62.8(256,279), the student shall be retained in grade three pursuant to rule 281—62.7(256,279).

62.5(3) *Student exempt from or completes program and is not reading proficient.* If the student is exempt from participating in an intensive summer reading program for good cause pursuant to rule 281—62.8(256,279) or completes the intensive summer reading program but is not reading proficient

upon completion of the program as determined under subrule 62.4(2), the student may be promoted to grade four, but the school district shall continue to provide the student with intensive reading instruction pursuant to subrule 62.4(3) until the student is proficient in reading as demonstrated by scores on locally determined or statewide assessments pursuant to subrule 62.4(2).

62.5(4) *Nature of intensive summer reading program.* The intensive summer reading program offered by a school district shall comply with the program criteria and guidelines for implementation contained in 281—Chapter 61.

62.5(5) *Waiver of intensive summer reading program.* The department may grant a school district a waiver of the requirement to offer an intensive summer reading program for the summer of 2017 only. A school district must demonstrate good cause and that the requested waiver is in keeping with the objectives of Iowa Code section 279.68 and these rules.

281—62.6(256,279) Successful progression for early readers. Each school district shall provide the following.

62.6(1) *Intensive instructional services.* A school district shall provide students who are identified as having a substantial deficiency in reading under subrule 62.4(2) with intensive instructional services and supports, free of charge, to remediate the identified areas of reading deficiency. The intensive instructional services are further described in subrule 62.6(2).

a. Intensive instructional services under this subrule shall include a minimum of 90 minutes daily of scientific research-based reading instruction, which shall be core instruction.

b. In addition to the instruction described in paragraph 62.6(1) “*a.*,” a school district shall prescribe other strategies, which may include but are not limited to the following:

- (1) Small group instruction.
- (2) Reduced teacher-student ratios.
- (3) More frequent progress monitoring.
- (4) Tutoring or mentoring.
- (5) Extended school day, week, or year.
- (6) Summer reading programs.

62.6(2) *Reading enhancement and acceleration development initiative.* The intensive instructional services described in subrule 62.6(1) shall be provided to all students in kindergarten through grade three who are identified as having a substantial deficiency in reading, as determined pursuant to subrule 62.4(2). The services shall meet the following requirements:

a. A school district shall provide intensive instructional services during regular school hours, in addition to the regular reading instruction.

b. A school district shall provide a reading curriculum that meets the standards of subrule 62.6(3).

62.6(3) *Reading curriculum for students with substantial deficiencies in reading.* A curriculum that does not meet the standards of this subrule shall not be used to implement this chapter. To implement this subrule, a school district shall provide a curriculum that meets the following guidelines and specifications:

a. Assists students assessed as exhibiting a substantial deficiency in reading to develop the skills to read at grade level.

b. Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

c. Is supported by scientifically based research in reading.

d. Is implemented by certified instructional staff with appropriate training and professional development. Such training and professional development shall meet the requirements of rule 281—83.6(284).

e. Is implemented by certified instructional staff with fidelity, which shall meet such standards for fidelity of implementation that the department may adopt.

f. Includes a scientifically based and reliable assessment, which shall meet the requirements of rule 281—62.1(256,279).

g. Provides initial and ongoing analysis of each student's reading progress, which shall meet the requirements of rule 281—62.1(256,279), with notice provided to parents pursuant to subrule 62.6(4).

h. Is implemented during regular school hours.

i. Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

62.6(4) Parent notice, involvement and support. At a minimum and in addition to other requirements of this chapter, school districts shall provide the following to all parents or guardians of students who have been identified as having a substantial deficiency in reading:

a. At regular intervals, a school district shall apprise the parent or guardian of academic and other progress being made by the student and give the parent or guardian other useful information.

b. In addition to required reading enhancement and acceleration strategies provided to students, a school district shall provide parents or guardians of students who are identified as having a substantial deficiency in reading under subrule 62.4(2) with a plan outlined in a parental contract, including participation in regular parent-guided home reading.

62.6(5) Report to the department. Each school district shall report to the department the specific intensive reading interventions and supports implemented by the school district pursuant to this chapter. The department shall annually prescribe the components of required or requested reports.

281—62.7(256,279) Promotion to grade four.

62.7(1) General. In determining whether to promote a student in grade three to grade four, a school district shall place significant weight on any reading deficiency identified pursuant to subrule 62.4(2) that is not yet remediated.

62.7(2) Mandatory retention. A student described in subrule 62.5(2) shall be retained pursuant to this rule.

62.7(3) Additional factors. In addition to the significant weight required by subrule 62.7(1), the school district shall also weigh the student's progress in other subject areas, as well as the student's overall intellectual, physical, emotional, and social development.

62.7(4) Consultation with parent or guardian. A decision to retain a student in grade three shall be made only after direct personal consultation with the student's parent or guardian.

62.7(5) Plan of action required. A decision to retain a student in grade three shall be made only after the formulation of a specific plan of action to remedy the student's reading deficiency.

281—62.8(256,279) Good-cause exemption. A school district shall exempt students from the retention requirements of rule 281—62.7(256,279) and intensive summer reading program requirements of rule 281—62.5(256,279) for good cause.

62.8(1) "Good cause" defined. Good-cause exemptions shall be limited to the following:

a. Limited English proficient students who have had less than two years of instruction in an English language learners program.

b. Students requiring special education whose individualized education program indicates that participation in a locally determined or statewide assessment required by this chapter is not appropriate, consistent with the requirements of rules adopted by the state board of education for the administration of Iowa Code chapter 256B.

c. Students who demonstrate an acceptable level of performance on an alternative performance measure approved pursuant to subrule 62.3(2).

d. Students who demonstrate mastery through a student portfolio under alternative performance measures approved pursuant to subrule 62.3(3).

e. Students who have received intensive remediation in reading for two or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade one, grade two, or grade three. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist attendance centers and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

62.8(2) Additional documentation required. Requests for good-cause exemptions from the retention requirement of subrule 62.5(2) and rule 281—62.7(256,279) for a student described in paragraphs 62.8(1) “c” and “d” shall include documentation from the student’s teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student’s academic record. Such documentation shall include but not be limited to the individualized education program, if applicable, report card, or student portfolio.

281—62.9(256,279) Ensuring continuous improvement in reading proficiency.

62.9(1) Reading proficiency addressed in comprehensive school improvement plan. To ensure all children are reading proficiently by the end of third grade, each school district shall address reading proficiency as part of its comprehensive school improvement plan, drawing upon information about children from assessments conducted pursuant to this chapter and the prevalence of deficiencies identified by classroom, elementary school, and other student characteristics.

62.9(2) Review of chronic early absenteeism. As part of its comprehensive school improvement plan, each school district shall review chronic early elementary absenteeism for its impact on literacy development.

62.9(3) Attendance centers with lower levels of reading proficiency. If more than 15 percent of an attendance center’s students are not proficient in reading by the end of third grade, the comprehensive school improvement plan shall include strategies to reduce that percentage, including school and community strategies to raise the percentage of students who are proficient in reading. Strategies adopted under this subrule shall meet the requirements of this chapter.

62.9(4) Professional development. Each school district, subject to an appropriation of funds by the general assembly, shall provide professional development services to enhance the skills of elementary teachers in responding to children’s unique reading issues and needs and to increase the use of evidence-based strategies.

62.9(5) Relationship between this chapter and the department’s general accreditation standards. In addition to the requirement in subrule 62.9(1), the department shall consider compliance with and performance under this chapter in its enforcement of the general accreditation standards and school improvement process described in 281—Chapter 12.

281—62.10(256,279) Miscellaneous provisions.

62.10(1) Services beyond third grade. Students who are identified as having a substantial deficiency in reading that is not remediated at the end of third grade remain entitled to intensive reading instruction. Nothing in this chapter shall be construed to prevent a school district from offering scientific research-based instruction in reading to students above third grade. Nothing in this chapter shall be construed to prohibit a school district from determining a student above third grade as having a substantial deficiency in reading or from providing services to a student so identified.

62.10(2) Database. In implementing subrule 62.6(5), the department may require school districts to enter assessment and progress monitoring data into a statewide database.

62.10(3) Accredited nonpublic schools. Nothing in this chapter shall be construed to prevent an accredited nonpublic school from voluntarily complying with this chapter. Nothing in this chapter shall be construed to prevent the department from offering universal screening or progress monitoring instruments to accredited nonpublic school students or to prevent the department from allowing inclusion of those students’ data in the database described in subrule 62.10(2).

62.10(4) *Rule of construction.* Nothing in this chapter shall be construed to require a school district to select a particular assessment, instrument, tool, curriculum, or program, so long as the assessment, instrument, tool, curriculum, or program used meets the requirements of this chapter.

These rules are intended to implement Iowa Code sections 256.7(31) and 279.68.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/19/14.