

EDUCATION DEPARTMENT[281]

Notice of Intended Action

**Proposing rule making related to financial management of categorical funding
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 257.41, 297.22, 298A.8 and 298A.12 and 2018 Iowa Acts, House Files 2441 and 2467.

Purpose and Summary

Chapter 98 outlines the financial management of categorical funding. The proposed amendments to Chapter 98 reflect significant legislative changes to categorical funding for Iowa school districts brought about during the 2018 Legislative Session. Those changes include clarification of allowed school district use of materials purchased for a home school assistance program; additional allowed uses of at-risk, returning dropout, and dropout prevention funds; major process changes regarding school district applications to the School Budget Review Committee for a modified supplemental amount for at-risk, returning dropout, and dropout prevention programs; a substantial change in allowed use of early intervention supplement funds, which is now any General Fund-appropriate use; allowing a school district to transfer from the General Fund to the school district’s student activity account an amount necessary for reconditioning of protective and safety equipment; allowing a school district to establish an unpaid student meals account within the nutrition fund and deposit moneys from the flexibility account within the General Fund to this account; and allowing school districts with a balance in the child care fund which exceeds the amount necessary to operate the before- and after-school program to transfer this excess to the General Fund by resolution of the board of directors following a public hearing. A more detailed explanation of these amendments follows:

Item 1: 2018 Iowa Acts, House File 2441, amends Iowa Code section 299A.12 to allow a school district to use items and materials purchased for the Home School Assistance Program for other purposes so long as those purposes do not prevent or interfere with the material’s use by parents or students utilizing the program. The amendment to rule 281—98.12(257,299A) implements that policy change.

Items 2 and 3: Over the last few legislative sessions, changes in allowed uses of funds generated through the at-risk formula under Iowa Code section 257.11(4) and funds generated through a modified supplemental amount under Iowa Code section 257.38 have resulted in these uses being identical. New subrules 98.18(1) and 98.18(2) reflect these changes.

Item 4: 2018 Iowa Acts, House File 2441, amends Iowa Code section 257.41(2), regarding appropriate uses of categorical funding for at-risk students, alternative programs and alternative schools, and returning dropout and dropout prevention programs. The amendment to subrules 98.21(1) to 98.21(3) implements those changes.

Item 5: 2018 Iowa Acts, House File 2441, amends Iowa Code section 257.10(11)“d,” pertaining to the allowed use of early intervention supplement funds due to the repeal of Iowa Code chapter 256D. New rule 281—98.23(257) reflects that change in allowed use.

Item 6: This item reletters a paragraph under subrule 98.22(3).

Item 7: 2018 Iowa Acts, House File 2467, creates new Iowa Code section 283A.11, which allows a school district to establish an unpaid student meals account in its school nutrition fund, and adds Iowa Code section 298A.2(2)“c”(06), allowing funds transferred to the flexibility account under Iowa Code section 298A.2 to be deposited in the unpaid student meals account for purposes of paying student meal debt. New paragraph 98.27(3)“g” implements that change.

Item 8: This amendment to subrule 98.44(1) clarifies how a school district is to address textbooks previously purchased for a nonpublic school with funds appropriated for this purpose and how to account for unexpended funds provided for the purchase of textbooks for a nonpublic school in the event the nonpublic school ceases operation.

Item 9: 2018 Iowa Acts, House File 2441, amends Iowa Code section 298A.8(2) to allow an amount necessary for reconditioning of protective and safety equipment to be transferred from the General Fund to the school district’s student activity account. The amendment to paragraph 98.61(2)“s” implements this change.

Item 10: 2018 Iowa Acts, House File 2467, creates new Iowa Code section 283A.11, under which a school district is allowed to establish an unpaid student meals account in the school nutrition fund. New subrule 98.74(4) implements that change.

Item 11: 2018 Iowa Acts, House File 2441, amends Iowa Code section 298A.12, allowing school districts with a balance in the child care fund which exceeds the amount necessary to operate the before-and after-school program to transfer the excess amount to the General Fund by resolution of the board of directors following a public hearing as prescribed in Iowa Code section 298A.12. The amendment to subrule 98.75(2) implements this policy change.

Fiscal Impact

The fiscal impact of this rule making is unknown.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 8, 2019. Comments should be directed to:

Nicole Proesch
Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: nicole.proesch@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 8, 2019
2 to 3 p.m.

State Board Room, Second Floor
Grimes State Office Building
East 14th Street and Grand Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 281—98.12(257,299A), introductory paragraph, as follows:

281—98.12(257,299A) Home school assistance program. The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district. If a district offers a home school assistance program, the state foundation aid that the district receives pursuant to Iowa Code section 257.6(1)“a”(5), and any amount designated for this purpose from the flexibility account as described in rule 281—98.27(257,298A), shall be expended for purposes of providing the home school assistance program. However, a district may use items and materials purchased for the home school assistance program for other purposes so long as this use does not prevent or interfere with the item's or material's use by parents or students utilizing the program.

ITEM 2. Rescind subrule 98.18(1) and adopt the following **new** subrule in lieu thereof:

98.18(1) Appropriate uses of categorical funding. Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils, alternative programs and alternative schools for secondary students, and returning dropout and dropout prevention programs. Appropriate uses include those identified in subrule 98.21(2).

ITEM 3. Rescind subrule 98.18(2) and adopt the following **new** subrule in lieu thereof:

98.18(2) Inappropriate uses of categorical funding. Inappropriate uses of at-risk formula supplementary weighting program funding include those identified in subrule 98.21(3).

ITEM 4. Amend subrules 98.21(1) to 98.21(3) as follows:

98.21(1) Purpose of categorical funding. The purpose of the modified supplemental amount is to provide funding to meet the needs of identified students for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4). The funding shall be used only for expenditures that are directly related to the district's ~~approved~~ board-adopted program plan established pursuant to Iowa Code sections 257.38 through 257.41.

a. and b. No change.

98.21(2) Appropriate uses of categorical funding. Appropriate uses of the funding for ~~an approved~~ a board-adopted program include, but are not limited to:

a. Salary and benefits for staff, including but not limited to instructional staff, instructional support staff, administrative staff, and guidance counselors, ~~and;~~ salary and benefits or contract payments for psychologists licensed under Iowa Code chapter 154B, licensed independent social workers or master social workers under Iowa Code chapter 154C, licensed mental health counselors under Iowa Code chapter 154D; and salaries and benefits for school-based youth services staff dedicated to providing services directly and exclusively to the identified students participating in the ~~approved~~ adopted program beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. However, if the staff person ~~or guidance counselor~~ works part-time or on a contract basis with students who are participating in the approved program and has another unrelated

staff assignment, only the portion of the staff person's or ~~guidance counselor's~~ time that is related to the program or with such students may be charged to the program funding. The school district shall have the authority to designate ~~and submit in the~~ in its adopted program plan the portion of the ~~staff member's or guidance counselor's person's~~ time and related salary and benefits or contract payment amount dedicated to this purpose.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk to accelerate through multiple grade levels of achievement within a shortened time frame.

~~b. Professional development for all teachers, guidance counselors, and staff identified in paragraph 98.21(2) "a" working with identified students under an approved adopted program.~~

~~c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:~~

- ~~(1) Meet the needs of K through grade 12 identified students,~~
- ~~(2) Are beyond those provided by the regular school program,~~
- ~~(3) Are necessary to provide the services listed in the school district's approved adopted at-risk or returning dropout and dropout prevention program plan, and~~
- ~~(4) Will remain with the K through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.~~

~~d. Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program located in and provided by another Iowa school district or an extended school year program.~~

~~e. The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.~~

~~f. School-level administrator assigned exclusively to an off-site alternative school or alternative program within the district. If the principal is administering the school or program part-time, the portion of time that is exclusively and directly related to the program may be charged to the program funding, but the portion of time that is related to other purposes shall not.~~

~~g. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:~~

- ~~(1) The child does not require special education.~~
- ~~(2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.~~
- ~~(3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.~~
- ~~(4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.~~

~~h. Costs incurred for a program intended to address high rates of absenteeism, truancy, or frequent tardiness.~~

~~i. Amounts that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide, buildingwide, or grade-specific at-risk and dropout prevention programming targeted to nonidentified students.~~

i. School security personnel costs.

j. Any purpose determined by the board of directors that directly benefits students participating in the adopted program.

98.21(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the modified supplemental amount program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.21(2), ~~administrative costs other than those allowed in subrule 98.21(2)~~, expenses related to the routine duties of a school nurse, general support for a school guidance counselor including ~~any and~~ activities performed by a staff member under paragraph 98.21(2) “a” with identified students that are also provided to all students, or any other expenditures not directly related to providing the ~~approved board-adopted~~ program beyond the scope of the regular classroom.

ITEM 5. Rescind rule 281—98.23(256D,257) and adopt the following **new** rule in lieu thereof:

281—98.23(257) Early intervention supplement.

98.23(1) *Appropriate uses of categorical funding.* Appropriate uses of the early intervention-supplement funding include any general fund-appropriate use described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

98.23(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the early intervention-supplement funding include those which are inappropriate to the general fund as described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

98.23(3) *Deference.* Deference shall be given to the decisions of school districts’ boards of directors in accordance with Iowa Code section 257.10.

This rule is intended to implement Iowa Code section 257.9(8).

ITEM 6. Reletter paragraph **98.27(3)“g”** as **98.27(3)“h.”**

ITEM 7. Adopt the following **new** paragraph **98.27(3)“g”**:

g. Deposit into the unpaid student meals account as described in subrule 98.74(4).

ITEM 8. Amend subrule 98.44(1) as follows:

98.44(1) *Appropriate uses of categorical funding.* The appropriate use of the nonpublic textbook services funding shall be for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. ~~“Textbook”~~ “Textbooks” means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, other computer courseware and magnetic media, and laptop computers or other portable personal computing devices which are used for nonreligious instructional use only.

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended shall also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

In the event that a participating accredited nonpublic school ceases operation, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be returned to the public school district in which the nonpublic school was located. Funds provided for the purpose of purchasing textbooks for the nonpublic school that are unexpended shall be reverted to the department of education.

ITEM 9. Amend paragraph **98.61(2)“s”** as follows:

s. Beginning with the budget year beginning July 1, 2016, transferring, by board resolution, to the student activity fund an amount necessary to purchase or, beginning with the budget year

beginning July 1, 2018, recondition protective and safety equipment required for any extracurricular interscholastic athletic contest or competition that is sponsored or administered by an organization as defined in Iowa Code section 280.13, as allowed under Iowa Code section 298A.2 pursuant to Iowa Code section 298A.8(2).

ITEM 10. Adopt the following new subrule 98.74(4):

98.74(4) *Unpaid student meals account.* Beginning with the budget year beginning July 1, 2018, in accordance with Iowa Code section 283A.11, a school district may establish an unpaid student meals account in the school nutrition fund and may deposit in the account moneys received from private sources for purposes of paying student meal debt accrued by individual students as well as amounts designated for the account from the school district's flexibility account as described in rule 281—98.27(257,298A). Moneys deposited in the unpaid student meals account shall be used by the school district only to pay individual student meal debt. The school district shall set fair and equitable procedures for such expenditures.

ITEM 11. Amend subrule 98.75(2) as follows:

98.75(2) *Appropriate uses of the child care fund.* Appropriate expenditures in the child care fund include salaries and benefits for employees necessary to operate the child care program or before- and after-school program, purchased services, supplies, and equipment.

Effective with the budget year beginning July 1, 2018, if the balance in the before- and after-school program exceeds the amount necessary to operate the before- and after-school program, the excess amount may, following a public hearing, be transferred to the general fund by a resolution of the board of directors of the school corporation which meets all requirements stipulated in Iowa Code section 298A.12. A transfer under this subrule does not increase a school district's authorized expenditures as defined in Iowa Code section 257.7.

ITEM 12. Amend **281—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A, 300, 301, 423E, 423F, 565, and 670; and Iowa Code sections 11.6(1) "a" (1), 256C.4(1) "c," 256D.4(3) and 284.13; ~~and 2011 Iowa Code Supplement chapters 298 and 299A.~~