

**EDUCATION DEPARTMENT[281]**

**Notice of Intended Action**

**Proposing rule making related to agency procedure and petitions for rule making and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 2, “Agency Procedure for Rule Making and Petitions for Rule Making,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

*Purpose and Summary*

This proposed rule making modernizes the Department’s procedures for rule making in light of the revisions to the Iowa Administrative Procedure Act made by 2020 Iowa Acts, House File 2389.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 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 March 16, 2021. Comments should be directed to:

Thomas Mayes  
Department of Education  
Grimes State Office Building, Second Floor  
400 East 14th Street  
Des Moines, Iowa 50319-0146  
Phone: 515.242.5614  
Email: [thomas.mayes@iowa.gov](mailto:thomas.mayes@iowa.gov)

*Public Hearing*

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

March 16, 2021  
9:30 to 10 a.m.

Room B100  
Grimes State Office Building  
Des Moines, Iowa  
Via video conference:  
[idoc.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09](https://idoc.zoom.us/j/98069592361?pwd=VHRHQXIUOXF6ZnV4YjJ4Q2dwSzBVZz09)

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 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. Adopt the following **new** subrule 2.7(3):

**2.7(3) Jobs impact statement.** The agency shall prepare a jobs impact statement for each proposed rule, as required by Iowa Code section 17A.4B, unless waived by the administrative rules coordinator. The analysis in the jobs impact statement shall give particular weight to jobs in production sectors of the economy, which includes the manufacturing and agricultural sectors of the economy, and shall include analysis, where applicable, of the impact of the rule on expansion of existing businesses or facilities.

If a jobs impact statement is revised after a notice of intended action or a rule filed without notice pursuant to Iowa Code section 17A.4(3) is published, the revised jobs impact statement shall be published as part of the preamble to the adopted version of the rule, unless the administrative rules coordinator determines that publication of the entire jobs impact statement would be unnecessary or impractical.

ITEM 2. Amend subrule 2.12(2) as follows:

**2.12(2) Incorporation by reference.** The agency may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the agency finds that the incorporation of its text in the agency proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the agency proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The agency may incorporate such matter by reference in a proposed or adopted rule only if the agency makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from this agency, and how and where copies may be obtained from the agency of the United States, this state, another state, or the organization, association, or persons, originally issuing that matter. The agency shall retain permanently a copy of any materials incorporated by reference in a rule of the agency.

If the agency adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically. The agency may establish alternative procedures providing for public access to an electronic or printed copy of a publication containing standards adopted by reference if the publication is proprietary or contains proprietary information.

ITEM 3. Adopt the following **new** subrule 2.17(3):

**2.17(3)** Beginning July 1, 2012, over each five-year period of time, the agency shall conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies. The agency shall commence its review by developing a plan of review in consultation with major stakeholders and constituent groups. When the agency completes the five-year review of the agency’s own rules, the agency shall provide a summary of the results to the administrative rules coordinator and the administrative rules review committee.

ITEM 4. Amend rule 281—2.18(17A) as follows:

**281—2.18(17A) Petition for rule making.** A petition requesting the adoption, amendment, or repeal of a rule shall be filed with the department of education at the Grimes State Office Building, Second Floor, Des Moines, Iowa 50319-0146. A petition is deemed filed when it is received by that office. The department of education shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose.

**2.18(1) Form.** The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF EDUCATION	
Petition by (Name of Petitioner) for the Adoption/Amendment/Repeal of (Cite rule involved).	}
PETITION FOR RULE MAKING	

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the petition is based.
2. The precise citation to the present rule if the petition is for the amendment or repeal of the same.
3. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, and any other relevant law.
4. A summary of the reasons for requesting the adoption, amendment or repeal of a rule.
5. Full disclosure of the petitioner’s interest in the outcome of the petition.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the issue(s) raised by the petition and whether, to the petitioner’s knowledge, those issues have been decided by, are pending determination by, or are under investigation by, any other governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the issue(s) presented in the petition.

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

**2.18(2) Response to petition.** Within 60 days after submission of a petition, the agency either shall deny the petition in writing on the merits, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter, or adopt a rule if it is not required to be filed according to the procedures of this chapter and Iowa Code section 17A.4(1). The agency shall submit the petition and the disposition of the petition to the administrative rules review committee.

ITEM 5. Renumber rule **281—2.19(17A)** as **281—2.20(17A)**.

ITEM 6. Adopt the following **new** rule 281—2.19(17A):

**281—2.19(17A) Rule-making Internet site.** Subject to the direction of the administrative rules coordinator, the agency shall make available to the public a uniform, searchable, and user-friendly rules

database, published on an Internet site. An agency's rule-making Internet site shall also make available to the public all of the following:

**2.19(1)** A brief summary of the rule-making process, including a description of any opportunity for public participation in the process.

**2.19(2)** Process forms for filing comments or complaints concerning proposed or adopted rules.

**2.19(3)** Process forms and instructions for filing a petition for rule making pursuant to rule 281—2.18(17A), a petition for a declaratory order pursuant to 281—Chapter 3, or a petition for a waiver of an administrative rule pursuant to 281—Chapter 4.

**2.19(4)** Any other material prescribed by the administrative rules coordinator.

ITEM 7. Amend **281—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 256.7(3) and chapter 17A as amended by 1998 Iowa Acts, chapter 1202.