

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to criteria for late-filed open enrollment

The State Board of Education hereby amends Chapter 17, “Open Enrollment,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted 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, 2021 Iowa Acts, House File 847.

Purpose and Summary

2021 Iowa Acts, House File 847, added an additional reason for late-filed open enrollment: “a consistent failure of the resident district to reasonably respond to a student’s failure to meet basic academic standards after notice provided by a parent or guardian.” House File 847 requires the State Board to “adopt by rule the criteria for determining a resident district’s consistent failure to reasonably respond to a student’s failure to meet basic academic standards.” This rule making adopts such criteria.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 9, 2022, as **ARC 6184C**. A public hearing was held on March 1, 2022, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. Two persons attended, but no one provided comment.

The Department received one written comment from the Iowa Association of School Boards, requesting a time frame for subparagraph 17.5(3)“c”(2) and more clarity on what it means to monitor student growth over time. The commenter also requested that the words “but shall not be limited to” in the introductory paragraph of 17.5(3)“c” be removed.

Whether a district reasonably failed to respond to a student’s consistent failure to make progress toward academic standards is dependent on the facts of each student’s case. For that reason, the Department is unable to state how much growth is enough or how progress should be monitored. Expected growth and how that growth will be monitored are best committed to local discretion in light of a particular student’s circumstances. No changes were made based on the comment.

The Department concludes that some time frame is necessary to provide some structure and certainty to students, parents, educators, and school boards. While the commenter specifically asked for a time frame in subparagraph 17.5(3)“c”(2), the time frame ought to apply to the entire paragraph. All three subparagraphs of paragraph 17.5(3)“c” are elements of providing appropriate instruction: providing evidence-based instruction, monitoring progress, and making instructional changes in the face of slow to no progress. The time frame needs to be long enough to allow instruction to be effective, but not so long that a parent is unable to take advantage of this safety valve for late-filed open enrollment requests. For that reason, the relevant time period is a minimum of 12 weeks. That condition has been added to the introductory sentence of paragraph 17.5(3)“c,” and the words “over time” have been removed from subparagraph 17.5(3)“c”(2).

The Department also agrees that the words “but shall not be limited to” do not add any substantive meaning to paragraphs 17.5(3)“b” and “c” and risk adding uncertainty. For that reason, the words have been removed from those paragraphs.

Adoption of Rule Making

This rule making was adopted by the State Board on May 5, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The final Fiscal Note for 2021 Iowa Acts, House File 847, identified no fiscal impact to the state and can be found at www.legis.iowa.gov/docs/publications/FN/1221404.pdf.

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.

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).

Effective Date

This rule making will become effective on July 6, 2022.

The following rule-making action is adopted:

Adopt the following **new** subrule 17.5(3):

17.5(3) *Criteria for determining whether a resident district consistently failed to reasonably respond to a student's failure to meet basic academic standards.* School officials, upon having data to evidence a student's failure to meet basic academic standards and having received notice from a student's parent/guardian, must have failed to respond to the student's failure.

a. Basic academic standards include Iowa academic standards for English language arts, mathematics, science, and social studies.

b. Evidence of a student's failure to meet basic academic standards may include one or more of the following:

- (1) Failure to meet grade-level benchmarks on universal screening assessments.
- (2) Failure to achieve proficiency on standards-based outcome assessments.
- (3) Receiving a grade of D or F (or equivalent) for a course.

c. A district's consistent failure to respond may include one or more of the following, measured over a minimum period of 12 weeks:

- (1) Failure to provide evidence-based interventions or strategies targeted to the student's needs.
- (2) Failure to monitor student growth.
- (3) Failure to make changes to the student's improvement plan if the student does not show progress.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/22.