

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

This chapter, which provides guidance on financial management of multiple public school funds, was adopted effective September 30, 2009, with the exception of rules 281—98.12(257,299A) and 281—98.112(275), both of which were delayed 70 days by the Administrative Rules Review Committee at the Committee’s meeting of September 8, 2009. At its meeting held December 8, 2009, the Committee took no further action on rule 281—98.112(275), but voted to delay the effective date of rule 281—98.12(257,299A) until the adjournment of the 2010 Session of the General Assembly. During the 2010 Session, 2010 Iowa Acts, Senate File 2376, was enacted, specifying in section 40 thereof the lawful purposes of the per-pupil funding received by a school district that operates a home school assistance program. That provision is implemented in Item 3. Because it was necessary to amend the chapter, other items have been edited, as follows:

Item 1 includes two common definitions, taking the definitions from statute (Iowa Code sections 276.3 and 299A.8, respectively) for the ease of the reader.

Item 2 requires amending because market factor incentive pay from Iowa Code section 284.11 (2007) has ceased to exist, but school districts need guidance regarding their unspent funds.

Items 4 and 5 correct confusion that developed regarding the Department’s erroneous reference to “dean of students” in the to-be-stricken language. A dean of students is a school administrator, and school administrators are addressed later in both rules.

Items 6 and 9 include changes made to Iowa Code section 257.9, subsections 6 and 7, to the names of funds. Such changes were not made in the substantive sections of statutes, so the Department has chosen to use both names.

Items 7, 8, and 10 make necessary adjustments to acknowledge that the educational excellence Phase II program and the educator quality basic salary program were combined and that they and the educational excellence Phase I program are no longer grants-in-aid but are budgetary allocations.

Item 11 implements the change to the definition of “textbook” in 2010 Iowa Acts, Senate File 2178.

Item 12 includes a clarification that is important for auditors and for the state appeals board and that was inadvertently omitted when the chapter was first adopted.

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

Interested individuals may make written comments on the proposed amendments on or before September 14, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Su McCurdy, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-8777.

These amendments are intended to implement 2010 Iowa Acts, Senate File 2178, 2010 Iowa Acts, Senate File 2376, section 40, and Iowa Code chapters 257 and 284.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “Community education” and “Dual enrollment” in rule **281—98.1(256,257)**:

“*Community education*” means a life-long education process concerning itself with every facet that affects the well-being of all citizens within a given community. It extends the role of the school from one of teaching children through an elementary and secondary program to one of providing for

citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.

Community education energizes people to strive for the achievement of determined goals and stimulates capable persons to assume leadership responsibilities. It welcomes and works with all groups, it draws no lines. It is the one institution in the entire community that has the opportunity to reach all people and groups and to gain their cooperation.

“*Dual enrollment*” means enrollment of a child who receives competent private instruction, including a child over compulsory attendance age, in a school district to enable the child to participate in any academic or extracurricular activity on the same basis as similarly-situated public school children.

ITEM 2. Amend subrule 98.2(4) as follows:

98.2(4) *Discontinued funding.* In the event that a categorical funding source is discontinued and an unexpended balance remains, the school district or area education agency shall carry forward the unexpended balance and expend the remaining balance within the subsequent 24 months for the purposes which were allowed in the final year that the funding was allocated or granted prior to discontinuation unless a rule in this chapter provides for a longer period. This subrule does not apply to market factor incentive pay funding, which may be carried forward until expended, but any expenditures from the market factor incentive pay funding must be appropriate under Iowa Code section 284.11 (2007 and 2007 Supplement).

ITEM 3. Rescind rule 281—98.12(257,299A) and adopt the following **new** rule in lieu thereof:

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.

98.12(1) *Appropriate uses of categorical funding.* Appropriate uses of the home school assistance program funding include, but are not limited to, the following:

- a. Assisting parents with instruction.
- b. Services to support students enrolled in a home school assistance program, to support the parents of the students, and to support home school assistance program staff.
- c. Salary and benefits for the supervising teacher of the home school assistance program. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, then the portion of time that is related to providing the home school assistance program can be charged to the program, but the regular classroom portion cannot.
- d. Salary and benefits for clerical and office staff of the home school assistance program. If the staff member’s employment supports other programs of the school district, only that portion of the staff member’s salary and benefits that is related to providing the home school assistance program can be charged to the program.
- e. Staff development for the home school assistance program teacher.
- f. Travel for the home school assistance program teacher.
- g. Resources, materials, computer software, supplies, and purchased services (1) that are necessary to provide the services of home school assistance and (2) that will remain with the school district for its home school assistance program.
- h. A copier and computer hardware that support the home school assistance program.

98.12(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the home school assistance program funding include, but are not limited to, indirect costs or use charges; operational or maintenance costs in addition to the cost of maintaining school district facilities; capital expenditures; student transportation except in cases of home school assistance program-approved field trips or other educational activities; administrative costs; concurrent enrollment program costs, including postsecondary enrollment options program costs; or any other expenditures not directly related to

providing the home school assistance program. A home school assistance program shall not provide moneys to parents or students utilizing the program.

ITEM 4. Amend paragraph **98.18(1)“a”** as follows:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of students participating in the at-risk or alternative school programs ~~and salary and benefits for guidance counselors or a dean of students when the teacher (or counselor) is dedicated to working directly and exclusively with identified students beyond the services provided by the school district to students who are not identified as at risk.~~ If the teacher (or counselor) is part-time at-risk and part-time regular classroom teacher (counselor), then the portion of time that is related to the at-risk program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

ITEM 5. Amend paragraph **98.21(2)“a”** as follows:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of students participating in the dropout prevention programs, alternative programs, and alternative schools, ~~and salary and benefits for guidance counselors or a dean of students when the teacher (or counselor) is dedicated to working directly and exclusively with identified students to provide services beyond those provided by the school district to students who are not identified as at risk of becoming dropouts.~~ If the teacher (or counselor) is a part-time dropout prevention and part-time regular classroom teacher (counselor), then the portion of time that is related to the dropout prevention program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

ITEM 6. Amend rule 281—98.23(256D,257), catchwords, as follows:

281—98.23(256D,257) Iowa early intervention block grant, also known as early intervention supplement.

ITEM 7. Rescind rule 281—98.24(257,294A) and adopt the following new rule in lieu thereof:

281—98.24(257,284) Teacher salary supplement. Beginning with the fiscal year 2009-2010, the educational excellence Phase II program and the educator quality basic salary program were combined and converted from grants-in-aid categorical funding to a budgetary allocation categorical funding. Remaining balances in the educational excellence Phase II program and the educator quality basic salary program shall be expended for the same purposes as the teacher salary supplement. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of a school district and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

98.24(1) *Appropriate use of categorical funding.* Appropriate use of the teacher salary supplement funding is limited to additional salary for teachers, including amounts necessary for the district to comply with statutory teacher salary minimums; the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294; and payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10, subsection 4. Teacher salary supplement funding shall be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining and it would not be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency shall carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

98.24(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the teacher salary supplement funding include any expenditures other than the appropriate use described in subrule 98.24(1) hereof.

ITEM 8. Rescind and reserve rule **281—98.25(257,284)**.

ITEM 9. Amend rule 281—98.26(257,284), catchwords, as follows:

281—98.26(257,284) Educator quality professional development, also known as professional development supplement.

ITEM 10. Rescind and reserve rule **281—98.41(257,294A)**.

ITEM 11. Amend rule 281—98.44(257,301) as follows:

281—98.44(257,301) Nonpublic textbook services. Textbooks adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools.

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" 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, ~~and~~ 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.

98.44(2) *Inappropriate uses of categorical funding.* Inappropriate uses of nonpublic textbook services funding include, but are not limited to, reimbursements to accredited nonpublic schools for purchases made by the accredited nonpublic school, sectarian textbooks, computer hardware other than laptop computers or other portable personal computing devices which are used for nonreligious instructional use only, installation of hardware or other purchased services, teacher manuals or any other materials not available to the students attending the accredited nonpublic school, or any other expenditure that does not fit the definition of textbook. Funding provided for one nonpublic school located within the boundaries of the public school district shall not be used for another accredited nonpublic school, even if the accredited nonpublic school is associated with the same parent organization.

ITEM 12. Amend rule 281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) as follows:

281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds. Tax levies or funds that are required by law to be expended only for the specific items listed in statute shall be accounted for in a similar way to categorical funding. Each fund is mutually exclusive and completely independent of any other fund. No fund shall be used as a clearing account for another fund, ~~and~~ no fund may retire the debt of another fund unless specifically authorized in statute, and transfers between funds shall be accomplished only as authorized in statute.

ITEM 13. 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 as amended by 2010

Iowa Acts, Senate File 2376, section 40, 300, 301 as amended by 2010 Iowa Acts, Senate File 2178, 423E, 423F, 565, and 670 and sections 11.6(1)“a”(1), 256C.4(1)“c,” and 256D.4(3) and 284.13.