



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 316 to 407 include **ARC 6467C** to **ARC 6486C**

AGENDA

Administrative rules review committee 309

ALL AGENCIES

Agency identification numbers 314
Citation of administrative rules 307
Schedule for rule making 308

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Notice, Health care professional
recruitment program, 14.1, 14.2(6)
ARC 6478C 316
Notice, Future ready Iowa skilled
workforce last-dollar scholarship
program—part-time enrollment,
15.3(1)"j"(1) **ARC 6479C** 317
Notice, Rural Iowa primary care loan
repayment program, 24.2, 24.3, 24.5 to
24.8 **ARC 6480C** 319

ECONOMIC DEVELOPMENT

AUTHORITY[261]

Notice, Butchery innovation and
revitalization program, amendments to
ch 51 **ARC 6470C** 322
Notice, High quality jobs program—wage
threshold, amendments to ch 174 **ARC 6471C** . . . 325
Filed, Workforce housing tax incentives
program, amendments to ch 48 **ARC 6467C** 373

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Filed, Paraeducator substitute
authorization, 24.4(9) **ARC 6468C** 381

EDUCATION DEPARTMENT[281]

Notice, Open enrollment, amendments to
chs 6, 17, 36 **ARC 6482C** 332
Notice, Charter schools—funding,
19.11(4)"c," 19.12 **ARC 6485C** 334
Notice, Preparation programs—teacher
interns, practitioners, administrators,
77.11(2), 79.13(4), 79.15(6) **ARC 6484C** 335
Filed Emergency, Open enrollment,
amendments to chs 6, 17, 36 **ARC 6483C** 365
Filed Emergency, Charter
schools—funding, 19.11(4)"c,"
19.12 **ARC 6486C** 370
Filed, Iowa vocational rehabilitation
services, ch 56 **ARC 6481C** 382

HUMAN SERVICES DEPARTMENT[441]

Notice, Developmental disabilities
basic state grant—definition of
"developmental disability," conflict of
interest policy, 38.1, 38.4 **ARC 6469C** 337
Notice, Facility participation, 54.1 to
54.3, 54.5 to 54.8 **ARC 6472C** 339
Notice, Home- and community-based
habilitation services—eligibility,
78.27(2) **ARC 6474C** 342
Notice, Reimbursement of providers
of medical and health services—cost
report reviews, 79.1 **ARC 6475C** 345

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Notice, Child care centers; child development homes; child care homes, 109.4(2), 109.6, 109.7, 109.10, 109.11, 110.9(4), 110.15(1)“c,” 120.9(2) ARC 6476C . . .	352
Notice, Record check evaluations—documentation, 119.3(1) ARC 6473C . . .	357

PUBLIC HEARINGS

Summarized list . . .	312
-----------------------	-----

**TELECOMMUNICATIONS AND
TECHNOLOGY COMMISSION, IOWA**

Public Notice . . .	359
---------------------	-----

TRANSPORTATION DEPARTMENT[761]

Advisory Notice . . .	359
Notice, Airport registration; special certificates for aircraft, amendments to chs 720, 750 ARC 6477C . . .	360

TREASURER OF STATE

Notice—Public funds interest rates . . .	363
--	-----

USURY

Notice . . .	363
--------------	-----

PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2022

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 22 '21	Jan. 12 '22	Feb. 1 '22	Feb. 16 '22	Feb. 18 '22	Mar. 9 '22	Apr. 13 '22	July 11 '22
Jan. 5	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	**May 11**	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	May 27	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	**June 22**	July 13	Aug. 17	Nov. 14
May 11	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
May 27	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
June 22	July 13	Aug. 2	Aug. 17	**Aug. 17**	Sep. 7	Oct. 12	Jan. 9 '23
July 8	July 27	Aug. 16	Aug. 31	Sep. 2	Sep. 21	Oct. 26	Jan. 23 '23
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '23
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '23
Aug. 17	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 6 '23
Sep. 2	Sep. 21	Oct. 11	Oct. 26	**Oct. 26**	Nov. 16	Dec. 21	Mar. 20 '23
Sep. 16	Oct. 5	Oct. 25	Nov. 9	**Nov. 9**	Nov. 30	Jan. 4 '23	Apr. 3 '23
Sep. 30	Oct. 19	Nov. 8	Nov. 23	Nov. 25	Dec. 14	Jan. 18 '23	Apr. 17 '23
Oct. 14	Nov. 2	Nov. 22	Dec. 7	**Dec. 7**	Dec. 28	Feb. 1 '23	May 1 '23
Oct. 26	Nov. 16	Dec. 6	Dec. 21	**Dec. 21**	Jan. 11 '23	Feb. 15 '23	May 15 '23
Nov. 9	Nov. 30	Dec. 20	Jan. 4 '23	**Jan. 4 '23**	Jan. 25 '23	Mar. 1 '23	May 29 '23
Nov. 25	Dec. 14	Jan. 3 '23	Jan. 18 '23	Jan. 20 '23	Feb. 8 '23	Mar. 15 '23	June 12 '23
Dec. 7	Dec. 28	Jan. 17 '23	Feb. 1 '23	Feb. 3 '23	Feb. 22 '23	Mar. 29 '23	June 26 '23
Dec. 21	Jan. 11 '23	Jan. 31 '23	Feb. 15 '23	Feb. 17 '23	Mar. 8 '23	Apr. 12 '23	July 10 '23

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Friday, September 2, 2022	September 21, 2022
7	Friday, September 16, 2022	October 5, 2022
8	Friday, September 30, 2022	October 19, 2022

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 13, 2022, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”

Health care professional recruitment program, 14.1, 14.2(6) Notice **ARC 6478C** 8/24/22
 Future ready Iowa skilled workforce last-dollar scholarship program—part-time enrollment,
 15.3(1)“j”(1) Notice **ARC 6479C** 8/24/22
 Rural Iowa primary care loan repayment program, 24.2, 24.3, 24.5 to 24.8 Notice **ARC 6480C** 8/24/22

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]“umbrella”

Application of generally accepted accounting principles (GAAP), 2.12(2), 9.1(3), 15.2(2),
 17.4(1), 18.1, 18.3(1), 18.4(1), 18.5(1) Notice **ARC 6443C** 8/10/22

ECONOMIC DEVELOPMENT AUTHORITY[261]

Workforce housing tax incentives program, amendments to ch 48 Filed **ARC 6467C** 8/24/22
 Butchery innovation and revitalization program, amendments to ch 51 Notice **ARC 6470C** 8/24/22
 High quality jobs program—wage threshold, amendments to ch 174 Notice **ARC 6471C** 8/24/22
 Sports tourism program—marketing fund, infrastructure fund, amend chs 214, 215; adopt ch
 216 Notice **ARC 6444C** 8/10/22

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Paraeducator substitute authorization, 24.4(9) Filed **ARC 6468C** 8/24/22

EDUCATION DEPARTMENT[281]

Charter schools—funding, 19.11(4)“c,” 19.12
Notice **ARC 6485C**, also Filed Emergency **ARC 6486C** 8/24/22
 Open enrollment, amendments to chs 6, 17, 36
Notice **ARC 6482C**, also Filed Emergency **ARC 6483C** 8/24/22
 Iowa vocational rehabilitation services, ch 56 Filed **ARC 6481C** 8/24/22
 Preparation programs—teacher interns, practitioners, administrators, 77.11(2), 79.13(4),
 79.15(6) Notice **ARC 6484C** 8/24/22

HUMAN SERVICES DEPARTMENT[441]

Declaratory orders—five-year review of rules, 5.1, 5.3(3), 5.5, 5.6, 5.9(2), 5.10, 5.11
Filed **ARC 6439C** 8/10/22
 Developmental disabilities basic state grant—definition of “developmental disability,”
 conflict of interest policy, 38.1, 38.4 Notice **ARC 6469C** 8/24/22
 Food assistance program—change of name to supplemental nutrition assistance program
 (SNAP); family self-sufficiency grants program, amendments to ch 47 Filed **ARC 6440C** 8/10/22
 Facility participation, 54.1 to 54.3, 54.5 to 54.8 Notice **ARC 6472C** 8/24/22
 Home- and community-based habilitation services—eligibility, 78.27(2) Notice **ARC 6474C** 8/24/22
 Reimbursement of providers of medical and health services—cost report reviews, 79.1
Notice **ARC 6475C** 8/24/22
 PROMISE JOBS program, amendments to ch 93 Notice **ARC 6458C** 8/10/22
 Child care centers; child development homes; child care homes, 109.4(2), 109.6, 109.7,
 109.10, 109.11, 110.9(4), 110.15(1)“c,” 120.9(2) Notice **ARC 6476C** 8/24/22
 Residential facilities for children with an intellectual disability or brain injury—five-year
 review of rules, 116.2 Notice **ARC 6457C** 8/10/22
 Record check evaluations—documentation, 119.3(1) Notice **ARC 6473C** 8/24/22
 Foster home insurance fund—auto damage by foster children, 158.3(1)“b” Filed **ARC 6441C** 8/10/22
 Child care expansion programs, rescind ch 168 Notice **ARC 6456C** 8/10/22

INSPECTIONS AND APPEALS DEPARTMENT[481]

Food and consumer safety; food establishment and food processing plant inspections,
 amendments to chs 30, 31 Notice **ARC 6455C** 8/10/22
 Home food processing establishments, ch 34 Notice **ARC 6454C** 8/10/22

LOTTERY AUTHORITY, IOWA[531]

Licensing—five-year review of rules, 12.1, 12.4, 12.12 to 12.15 Notice **ARC 6445C** 8/10/22

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Collaborative pharmacy practice, 13.4 Filed **ARC 6442C** 8/10/22
 Abortion prerequisites, 13.16 Notice **ARC 6461C** 8/10/22

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Respiratory care practitioners and polysomnographic technologists—polysomnography
 licensure fees, 5.17 Filed **ARC 6464C** 8/10/22
 Barbers—licensure, continuing education, independent study, 21.2, 21.16, 24.1 Notice **ARC 6459C** 8/10/22

PUBLIC HEALTH DEPARTMENT[641]

Center for congenital and inherited disorders, 4.1(1), 4.2, 4.3, 4.7, 4.11 to 4.14
Notice of Termination **ARC 6438C** 8/10/22
 AIDS drug assistance program (ADAP)—eligibility requirements, 11.43 Filed **ARC 6435C** 8/10/22
 Plumbing and mechanical systems professionals—journey person examination, 29.6(3)"I"
Filed **ARC 6463C** 8/10/22
 Limited radiologic technologist examination; permit holder continuing education,
 42.9(2)"e"(3), 42.18(2) Filed **ARC 6436C** 8/10/22
 Special supplemental nutrition program for women, infants, and children (WIC) online
 ordering project, 73.26 Filed **ARC 6437C** 8/10/22

PUBLIC SAFETY DEPARTMENT[661]

Local fire protection and emergency medical service providers grant program, 265.51
Filed **ARC 6462C** 8/10/22

REVENUE DEPARTMENT[701]

Public records and fair information practices; general administration; tax return extension in
 disaster areas, adopt ch 5; amend chs 6, 10 Notice **ARC 6452C** 8/10/22
 Tax-related due dates that fall on Saturdays, Sundays, or holidays, amendments to chs 7, 39,
 48, 52, 58, 70, 78, 87, 89 Notice **ARC 6450C** 8/10/22
 Appeals, taxpayer representation, and other administrative procedures, 7.6, 7.9(6), Notice **ARC 6449C** 8/10/22
 Personal service and paperless delivery of notices, correspondence, and other
 communication, 7.33, 8.6 Notice **ARC 6446C** 8/10/22
 Income tax returns—whole dollars, 8.5(2)"a" Notice **ARC 6448C** 8/10/22
 Failure to file penalty, 10.9 Notice **ARC 6453C** 8/10/22
 Corporate income tax rate adjustments, 51.10 Notice **ARC 6451C** 8/10/22

TRANSPORTATION DEPARTMENT[761]

Contested cases, 13.4 to 13.7, 13.12(3) Notice **ARC 6447C** 8/10/22
 Persons with disabilities parking permits, amendments to ch 411 Notice **ARC 6465C** 8/10/22
 Driver's licenses for active duty military service members and veterans, 605.10 Notice **ARC 6466C** 8/10/22
 Airport registration; special certificates for aircraft, amendments to chs 720, 750 Notice **ARC 6477C** 8/24/22

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

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Osage, Iowa 50461

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Renewable fuel infrastructure program, 13.1, 13.2(4), 14.2, 16.1 to 16.5 IAB 7/27/22 ARC 6426C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 24, 2022 11 a.m.
Choose Iowa promotional program and value-added agricultural grant program, ch 52 IAB 7/27/22 ARC 6433C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 24, 2022 1 p.m.

EDUCATION DEPARTMENT[281]

Charter schools—funding, 19.11(4)“c,” 19.12 IAB 8/24/22 ARC 6485C (See also 6486C)	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFczErSzNBcWxsUT09	September 13, 2022 10 to 10:30 a.m.
Open enrollment, amendments to chs 6, 17, 36 IAB 8/24/22 ARC 6482C (See also 6483C)	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFczErSzNBcWxsUT09	September 13, 2022 9:30 to 10 a.m.
Preparation programs—teacher interns, practitioners, administrators, 77.11(2), 79.13(4), 79.15(6) IAB 8/24/22 ARC 6484C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: idoe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFczErSzNBcWxsUT09	September 13, 2022 9 to 9:30 a.m.

MEDICINE BOARD[653]

Abortion prerequisites, 13.16 IAB 8/10/22 ARC 6461C	Board Office, Suite H 400 S.W. 8th St. Des Moines, Iowa Via videoconference: us02web.zoom.us/j/88138100043?pwd=WLAYMUxtRjZtQndjcjNUQTRpN3Y2UT09 Dial by your location: +1 312 626 6799 US (Chicago)	August 30, 2022 1 to 2 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Barbers—licensure, continuing education, independent study, 21.2, 21.16, 24.1 IAB 8/10/22 ARC 6459C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 30, 2022 9 to 9:30 a.m.
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REVENUE DEPARTMENT[701]

Income tax returns—whole dollars, 8.5(2)“a” IAB 8/10/22 ARC 6448C	Via video/conference call Contact Benjamin Clough Email: ben.clough@iowa.gov	August 31, 2022 2 to 3 p.m. (If requested)
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REVENUE DEPARTMENT[701](cont'd)

Failure to file penalty, 10.9 IAB 8/10/22 ARC 6453C	Via video/conference call Contact Benjamin Clough Email: ben.clough@iowa.gov	August 31, 2022 1 to 2 p.m. (If requested)
Corporate income tax rate adjustments, 51.10 IAB 8/10/22 ARC 6451C	Via video/conference call Contact Benjamin Clough Email: ben.clough@iowa.gov	August 31, 2022 9 to 10 a.m. (If requested)

TRANSPORTATION DEPARTMENT[761]

Contested cases, 13.4 to 13.7, 13.12(3) IAB 8/10/22 ARC 6447C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	September 1, 2022 1:30 p.m. (If requested)
Persons with disabilities parking permits, amendments to ch 411 IAB 8/10/22 ARC 6465C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	September 1, 2022 9 a.m. (If requested)
Driver's licenses for active-duty military service members and veterans, 605.10 IAB 8/10/22 ARC 6466C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	September 1, 2022 10:30 a.m. (If requested)
Airport registration; special certificates for aircraft, amendments to chs 720, 750 IAB 8/24/22 ARC 6477C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	September 15, 2022 10 a.m. (If requested)

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGING, DEPARTMENT ON[17]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
 OMBUDSMAN[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 EARLY CHILDHOOD IOWA STATE BOARD[249]
 ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 HUMAN SERVICES DEPARTMENT[441]
 INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
 IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Board[650]
 Medicine Board[653]
 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 6478C

COLLEGE STUDENT AID COMMISSION[283]**Notice of Intended Action****Proposing rule making related to health care professional recruitment program
and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 14, “Health Care Professional Recruitment Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 and 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

The proposed rule making implements amendments enacted in 2022 Iowa Acts, Senate File 2383. Senate File 2383 adds registered nurses and advanced registered nurse practitioners as eligible health care professionals, and adds Iowa community colleges as eligible institutions. In addition, the rule making makes a correction to an incorrect Iowa Code reference.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 Commission no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Mark Wiederspan
Executive Director
Iowa College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3410
Fax: 515.725.3401
Email: mark.wiederspan@iowa.gov or administrative rules website at rules.iowa.gov

COLLEGE STUDENT AID COMMISSION[283](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 **283—14.1(261)**, definitions of “Eligible institution” and “Health care professional,” as follows:

“*Eligible institution*” means an institution of higher learning governed by the state board of regents, a community college established under Iowa Code chapter 260C, or an accredited private institution as defined in Iowa Code section 261.9. Eligible institutions seeking to participate must complete an application provided by the commission and agree to place health care professionals in eligible rural communities.

“*Health care professional*” means an individual who holds a practitioner’s license issued by an agency or board under the Iowa department of public health and is employed as an advanced registered nurse practitioner, athletic trainer, occupational therapist, physician, physician assistant, podiatrist, ~~or~~ physical therapist, or registered nurse.

ITEM 2. Amend subrule 14.2(6) as follows:

14.2(6) Restrictions. A recipient of a loan repayment award under Iowa Code section 261.113, 261.114, or ~~261.115~~ 261.116 shall not be eligible for an award under this chapter. A health care professional who is in default on a Stafford loan, SLS loan, Grad PLUS loan, or a Perkins/National Direct/National Defense student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for repayment benefits. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5.

ARC 6479C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to future ready Iowa skilled workforce last-dollar scholarship program and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to amend Chapter 15, “Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 and 2022 Iowa Acts, House File 2165.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

Purpose and Summary

This proposed rule making implements changes enacted by 2022 Iowa Acts, House File 2165. House File 2165 allows students under age 20 who attend an eligible program of study on a part-time basis to qualify for the Future Ready Iowa Skilled Workforce Last-Dollar Scholarship.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 Commission no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Mark Wiederspan
Executive Director
Iowa College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3410
Fax: 515.725.3401
Email: mark.wiederspan@iowa.gov or administrative rules website at rules.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 action is proposed:

Amend subparagraph **15.3(1)“j”(1)** as follows:

(1) Prior to becoming an adult learner, enroll on a full-time or part-time basis following graduation from an Iowa high school, completion of private instruction under Iowa Code chapter 299A, or receipt of a high school equivalency diploma under Iowa Code chapter 259A, and maintain continuous enrollment on a full-time or part-time basis in subsequent semesters, with the exception of the summer semester, to receive additional awards. An eligible student must enroll on at least a part-time basis during the summer

COLLEGE STUDENT AID COMMISSION[283](cont'd)

semester to receive an award. An eligible student may enroll in fewer than 12 semester hours, or the equivalent, in the semester that the credential will be completed if full-time enrollment is not required to complete the program of study.

ARC 6480C**COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action****Proposing rule making related to rural Iowa primary care loan repayment program
and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 24, “Rural Iowa Primary Care Loan Repayment Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2022 Iowa Acts, Senate File 2383, and 2022 Iowa Acts, House File 2463.

Purpose and Summary

This proposed rule making implements amendments enacted in 2022 Iowa Acts, Senate File 2383. Senate File 2383 adds neurology as an eligible specialty, allows an applicant to complete an out-of-state residency program, and allows physicians to practice part-time in a service commitment area in regard to the Rural Iowa Primary Care Loan Repayment Program. In addition, the Commission defines how awards will be made under the program in the event that surplus funds exist. This proposed rule making also implements amendments enacted in 2022 Iowa Acts, House File 2463, corresponding to nonsubstantive corrections to the Iowa Code.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 Commission no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

COLLEGE STUDENT AID COMMISSION[283](cont'd)

Mark Wiederspan
Executive Director
Iowa College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3410
Fax: 515.725.3401
Email: mark.wiederspan@iowa.gov or administrative rules website at rules.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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** definition of “Part-time practice” in rule **283—24.2(261)**:
“*Part-time practice*” means that the physician is employed at least 28 hours of a 40-hour workweek in a service commitment area.

ITEM 2. Amend rule **283—24.2(261)**, definitions of “Physician,” “Residency program” and “Service commitment area,” as follows:

“*Physician*” means an individual who holds a practitioner’s license issued by an agency or board under the Iowa department of public health and is employed in the practice of medicine and surgery or osteopathic medicine and surgery, specializing in family medicine, pediatrics, psychiatry, internal medicine, obstetrics and gynecology, neurology, or general surgery.

“*Residency program*” means an accredited medical residency program ~~located in the state of Iowa in which the residency is physically performed in the state of Iowa.~~

“*Service commitment area*” means a medically underserved Iowa city ~~which~~ that provides a nonrefundable contribution for each physician in the community who is participating in the rural Iowa primary care loan repayment program, and ~~which the city~~ meets any of the following conditions:

1. Is a city within a federal mental health shortage area, as designated by the Health Resources and Services Administration of the United States Department of Health and Human Services, if the physician participating in the rural Iowa primary care loan repayment program specializes in psychiatry.

2. Is a city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

ITEM 3. Amend rule 283—24.3(261) as follows:

283—24.3(261) Eligibility requirements.

24.3(1) An eligible university will recommend ~~up to ten~~ applicants to the commission for loan repayment benefits. Priority will be given to students who are Iowa residents upon enrolling in the eligible university. “Iowa resident” means an individual who meets the residency requirements established in 283—Chapter 10. The percentage of the agreements to be entered into by students attending each eligible university shall be evenly divided.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

a. The commission will annually determine and communicate the number of recommendations that can be funded at each eligible university.

b. If fewer than the recommendations in 24.3(1)“*a*” are fulfilled by students at one eligible university, the commission may obtain additional recommendations from the other eligible university to award the remaining agreements.

c. If fewer than the total number of recommendations in 24.3(1)“*a*” are filled by students at the eligible universities, the commission may enter into additional agreements under the surplus funds provisions.

24.3(2) and **24.3(3)** No change.

24.3(4) An applicant must apply for, enter, and complete a residency program ~~in Iowa~~.

24.3(5) Within nine months of graduating from the residency program, an applicant must receive a permanent license to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and engage in full-time or part-time practice, ~~as defined by the service commitment area~~, of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, obstetrics and gynecology, neurology, or general surgery for a period of five consecutive years in a service commitment area.

24.3(6) No change.

24.3(7) Prior to or upon engagement in full-time employment or part-time practice in a service commitment area, the physician must contract with a service commitment area to provide a nonrefundable \$20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

24.3(8) No change.

ITEM 4. Amend rule 283—24.5(261) as follows:

283—24.5(261) Waivers.

24.5(1) No change.

24.5(2) *Full-time employment.* The commission may waive the requirement that the physician be employed full-time if the physician requests a waiver from the commission in writing and is working at least 28 hours per week. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The For agreements entered into pursuant to 24.3(2) prior to July 1, 2022, the five-year employment obligation will be proportionally extended to ensure the physician is employed in a service commitment area for the equivalent of five full-time years.

24.5(3) *Postponement of physician employment.* The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for no more than two years from the time full-time or part-time practice was to commence. The physician must request a waiver from the commission in writing for one of the following purposes:

- a.* Active duty service in the armed forces, the armed forces military reserve, or the national guard.
- b.* Service in Volunteers in Service to America or the federal Peace Corps.
- c.* A service commitment to the United States Public Health Service Commissioned Corps.
- d.* A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for a period exceeding two years for any period of temporary medical incapacity, including leave approved under the Family and Medical Leave Act, during which the physician is unable to engage in full-time or part-time practice. The physician must request a waiver from the commission in writing.

24.5(4) No change.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

ITEM 5. Renumber rules **283—24.6(261)** and **283—24.7(261)** as **283—24.7(261)** and **283—24.8(261)**.

ITEM 6. Adopt the following new rule 283—24.6(261):

283—24.6(261) Surplus funds.

24.6(1) In the event that fewer than the total number of recommendations in 24.3(1) “a” are filled by students at the eligible universities, the commission may enter into additional agreements.

24.6(2) A surplus funds applicant must meet the following criteria:

a. Must have graduated with a doctor of medicine or osteopathy degree from an eligible university and completed a residency program.

b. Must receive a permanent license to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and engage in full-time or part-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, obstetrics and gynecology, neurology, or general surgery for a period of five consecutive years in a service commitment area. The applicant must notify the commission of the applicant’s service commitment area prior to beginning practice in the service commitment area.

c. Must complete and return to the commission an affidavit of acceptance into and completion of a residency program, acceptance of employment, and completion of annual employment obligations in a service commitment area.

d. Must contract with a service commitment area to provide a nonrefundable \$20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

24.6(3) An applicant under rule 283—24.6(261) is subject to the provisions in 24.4(2) and rules 283—24.5(261), 283—24.7(261), and 283—24.8(261).

24.6(4) In the event that the total amount of surplus funds is insufficient to award all eligible applicants, awards will be prioritized as follows:

a. Physicians employed in a different state than Iowa and individuals in their final year of residency or fellowship, by date of application.

b. All other applicants by date of application.

ARC 6470C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to butchery innovation and revitalization program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 51, “Butchery Innovation and Revitalization Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 15E.370.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15E.370.

Purpose and Summary

The Butchery Innovation and Revitalization Program was created in 2021 and received an appropriation of \$1 million in 2022 Iowa Acts, House File 2564.

These proposed amendments to the rules implementing the program do the following:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

1. Require that applicants have an assessment of the proposed investment completed by the Center for Industrial Research and Service (CIRAS) at Iowa State University.
2. Create more flexibility in designation of the application review committee by the Authority Director, in consultation with the Iowa Secretary of Agriculture.
3. Increase the maximum award amount from \$50,000 to \$100,000.
4. Update the scoring criteria.

The proposed amendments have been reviewed by representatives of the Iowa Department of Agriculture and Land Stewardship.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 Authority no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 1. Amend rule 261—51.1(15E) as follows:

261—51.1(15E) Purpose. Pursuant to Iowa Code section 15E.370 ~~as enacted by 2021 Iowa Acts, House File 857, section 1,~~ the authority is authorized to provide financial assistance to businesses for projects relating to butchery innovation and revitalization as identified in this chapter.

ITEM 2. Adopt the following new definition of “CIRAS” in rule **261—51.2(15E)**:

“CIRAS” means the center for industrial research and service at Iowa state university of science and technology.

ITEM 3. Adopt the following new paragraph **51.3(1)“h”**:

h. The applicant must have an assessment of the applicant’s proposed investment completed by CIRAS prior to submission of an application.

ITEM 4. Amend rule 261—51.4(15E) as follows:

261—51.4(15E) Application submittal and review process.

51.4(1) The authority will develop a standardized application process and make information on applying available on the authority’s website. To apply for assistance under the program, an eligible business shall submit an application to the authority in the form and manner prescribed by the authority.

51.4(2) Applications will be accepted only during established application periods as announced on the authority’s website. Applications will be reviewed in the order received by the authority.

51.4(3) The authority may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds.

51.4(4) A scoring committee ~~that includes authority and department staff as described in subrule 51.5(1)~~ will consider, evaluate, and recommend applications for financial assistance under the program. The committee will review applications for financial assistance and score the applications according to the criteria described in subrule 51.5(2). Applications deemed to meet the minimum scoring criteria will be submitted to the board for a final funding decision.

51.4(5) The board, after considering the recommendations made by the committee, will determine which applications to fund and how much should be awarded to each applicant. The board has final decision-making authority on requests for financial assistance for the program. ~~The director will take final action on all applications for financial assistance, except those rejected pursuant to subrule 51.4(3).~~ The board may approve an award, decline to award, or refer an application back to staff for further review and recommendation.

51.4(6) The maximum amount of financial assistance awarded to an eligible business for all applications under the program shall not exceed \$50,000 ~~\$100,000. The board may increase the maximum amount of financial assistance per eligible business if funds are made available for the program in addition to the funds appropriated by 2021 Iowa Acts, House File 871.~~

51.4(7) Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the award.

ITEM 5. Amend rule 261—51.5(15E) as follows:

261—51.5(15E) Application scoring criteria.

51.5(1) Application scoring. A scoring committee ~~will be composed of at least one representative of the authority~~ individuals with relevant expertise and experience will be appointed by the director, ~~at least one representative of the department appointed by in consultation with the secretary, and two additional members mutually agreed upon by the director and the secretary.~~ The committee will evaluate the applications and give them an average numerical score between 0 and 100. ~~The board may not approve a grant for an application that receives an average score of less than 75 points.~~

51.5(2) Scoring criteria. The criteria under which each application will be scored are:

a. The extent to which the project benefits expands processing capacity or increases efficiency: 25 points. Projects that benefit local small-scale farmers by creating or expanding opportunities to market processed meat under private labels ~~or by providing,~~ provide greater flexibility or convenience to have

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~animals processed: 25 points. Projects that increase processing capacity or efficiency, or establish an essential community asset will receive more points. Projects that are likely to negatively impact existing meat processing businesses will receive fewer points. The committee may also consider the extent of any likely negative impact.~~

~~b. The extent to which the project establishes an essential community asset: 25 points. Projects that are likely to negatively impact existing meat processing businesses will receive fewer points. The committee may also consider the extent of any likely negative impact. The sufficiency of the proposed project's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds: 25 points. Applicants that can demonstrate that the applicant has planned for long-term use of the project will receive more points.~~

~~c. The sufficiency of the proposed project's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds: 15 points. The extent to which the proposed investment is consistent with the opportunities identified in the assessment completed by CIRAS pursuant to paragraph 51.3(1) "h": 15 points.~~

~~d. The extent to which the applicant has planned for long-term use of the project and the likelihood of long-term use: 15 points.~~

~~e. d. The number and quality of jobs to be created by the applicant as a result of the project or the extent to which the proposed investment uses automation to address workforce issues: 40 15 points. Projects that create more jobs or higher quality jobs will receive more points. Factors the committee will consider in assessing the quality of jobs include, but are not limited to, wages and benefits. Projects that utilize technology to address the workforce needs of the business, resulting in a more skilled workforce or increased processing capacity, will also receive more points.~~

~~f. e. The financial need of the applicant: 10 points. Applicants that received a business improvement grant from the department for expenses incurred between March 1, 2020, and December 1, 2020, or a previous grant from the program will receive fewer points.~~

~~f. The completeness of the application information and sufficiency of detail used to describe the project in the application: 10 points.~~

ITEM 6. Rescind rule **261—51.6(15E)**.

ITEM 7. Renumber rules **261—51.7(15E)** to **261—51.9(15E)** as **261—51.6(15E)** to **261—51.8(15E)**.

ITEM 8. Amend **261—Chapter 51**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 15E.370 as enacted by 2021 Iowa Acts, House File 857, section 1.

ARC 6471C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to high quality jobs program wage threshold and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 174, "Wage, Benefit, and Investment Requirements," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2325.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Purpose and Summary

2022 Iowa Acts, Senate File 2325, amends Iowa Code section 15.335C relating to the High Quality Jobs Program. The section states that a business with a project in an economically distressed area shall be required to pay 100 percent of the qualifying wage threshold, while businesses with projects in most other areas must pay 120 percent of the qualifying wage threshold. The legislation updates the criteria by which counties are designated as economically distressed areas. The amended Iowa Code section also allows the Authority Board to designate, at the request of a city or county, additional counties as economically distressed if a business located in the county experiences a layoff or a closure that has a significant impact on a community within the county.

These proposed amendments update Chapter 174 to reflect the changes made to Iowa Code section 15.335C and remove information about requirements for repealed programs.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 Authority no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 1. Amend subrule 174.2(4) as follows:

174.2(4) Effective date and applicability. The laborshed-based qualifying wage thresholds ~~adopted in 2012 Iowa Acts, House File 2473, are~~ were effective beginning on July 1, 2012, and the authority will apply the provisions of this rule to all qualifying wage threshold calculations made or updated on or after that date.

ITEM 2. Amend rule 261—174.3(15) as follows:

261—174.3(15) Qualifying wage threshold requirements—prior to July 1, 2009. 2009 Iowa Acts, Senate File 344, became effective on July 1, 2009. 2009 Iowa Acts, Senate File 344, repealed a number of programs administered by the department, established IVF(2009), and transferred moneys from prior programs to the IVF(2009). This resulted in a simplification of state financial assistance programs. The following subrules regarding qualifying wage thresholds apply to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department authority.

<u>Tax Credit Program</u>	<u>Wage Threshold Requirement</u>	<u>Can benefits value be added to the hourly wage to meet the wage threshold?</u>
<u>EZ</u>	90% of average county wage or average regional wage, whichever is lower	<u>No</u>
<u>HQJC</u>	130% of average county wage More benefits are available if the wage rate is 160% or higher	<u>Yes</u>

174.3(1) Qualifying wage threshold requirement—projects receiving IVF(FES) assistance. Awards funded during the time period beginning July 1, 2003, but before June 16, 2004, from IVF(FES) shall meet the wage requirements in effect at that time as reflected in the contract between the department and the business. Awards funded after June 16, 2004, using IVF(FES) moneys shall meet the qualifying wage thresholds for the programs through which funding is sought.

174.3(2) Qualifying wage threshold requirement—projects receiving IVF (2005) assistance. In order to receive financial assistance from the IVF (2005), applicants shall demonstrate that the annual wage, including benefits, of project jobs is at least 130 percent of the average county wage. If an applicant is applying for IVF (2005) moneys, the department will first review the application to ensure that the IVF (2005) wage requirement is met. The department will then review the application for compliance with the requirements of the department program from which financial assistance is to be provided.

174.3(3) Qualifying wage threshold requirement—projects funded by program funds (“old money”). Prior to July 1, 2003, direct financial assistance programs administered by the department were funded through state appropriations. After the creation of IVF(FES) and IVF (2005), these programs no longer received separate state appropriations. These programs were funded with IVF(FES) and IVF (2005) moneys. Moneys remaining, recaptured or repaid to these program funds remain available for awarding to projects. The department will review an application for compliance with the requirements of the department program from which financial assistance is to be provided.

174.3(4) Qualifying wage threshold requirement—projects receiving EDSA funds. EDSA is the job creation component of the federal CDBG program. The department will review an application for compliance with the federal CDBG EDSA requirements.

174.3(5) Qualifying wage thresholds, by funding source and by program.

a. IVF (2005). Projects that are funded with IVF (2005) moneys through the following programs shall meet the qualifying wage threshold listed below:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Funding Source: IVF (2005)		Qualifying Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the qualifying wage threshold?
CEBA:	Small business gap financing component	130% of average county wage	Yes
	New business opportunities and new product development components	130% of average county wage	Yes
	Venture project component	130% of average county wage	Yes
	Modernization project component	130% of average county wage	Yes
VAAPFAP		130% of average county wage	Yes
PIAP		130% of average county wage, unless funded through special allocation of PIAP funds, up to \$5 million, established in subrule 61.5(12)	Yes
EVA		130% of average county wage	Yes

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~b. *IVF(FES) and program funds.* Projects that are funded with IVF(FES) through the following programs or directly from available program fund moneys shall meet the qualifying wage thresholds listed below:~~

Funding Source: <u>IVF(FES) or Program Funds</u>		Qualifying Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the qualifying wage threshold?
CEBA:	Small business gap financing component	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
	New business opportunities and new product development components	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
	Venture project component	100% of average county wage or average regional wage, whichever is lower	No
	Modernization project component	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
VAAPFAP		No statutory requirement	Not applicable
PIAP		No statutory requirement	Not applicable
EVA		No statutory requirement	Not applicable

~~c. *EDSA.* Rescinded IAB 6/24/15, effective 7/29/15.~~

~~d. *EZ and HQJC.* Tax credit program projects shall meet the following wage thresholds:~~

Tax Credit Program	Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the wage threshold?
EZ	90% of average county wage or average regional wage, whichever is lower	No
HQJC	130% of average county wage More benefits are available if the wage rate is 160% or higher	Yes

ITEM 3. Rescind subrule **174.5(1)**.

ITEM 4. Renumber subrule **174.5(2)** as **174.5(1)**.

ITEM 5. Renumber subrule **174.5(4)** as **174.5(2)**.

ITEM 6. Amend rule 261—174.6(15) as follows:

261—174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2014. 2014 Iowa Acts, House File 2448, (“the Act”) became effective on July 1, 2014. Among other things, the Act

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~changed the qualifying wage thresholds applicable to HQJP and repealed the EZ program.~~ As of July 1, 2014, the qualifying wage thresholds described in this rule shall be in effect.

174.6(1) *Enterprise zone (EZ) program.* The qualifying wage threshold requirement applicable to the EZ program is 90 percent of the laborshed wage. The wage threshold described in this subrule continues to apply to agreements entered into before July 1, 2014. However, no new agreements may be entered into on or after July 1, 2014.

174.6(2) *High quality jobs program (HQJP).* The qualifying wage threshold requirement applicable to HQJP is 120 percent of the laborshed wage unless subrule 174.6(3) or 174.6(4) applies to a project.

174.6(3) *HQJP projects in distressed areas.*

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located in an economically distressed area.

b. For purposes of this subrule, “economically distressed area” means a county that ~~ranks among the bottom 33 of all Iowa counties, as measured by either the average monthly unemployment level for the most recent 12-month period or the average annualized unemployment level for the most recent five-year period.~~ meets at least three of the following criteria:

(1) The county ranks among the 33 Iowa counties with the highest average monthly unemployment rates for the most recent 12-month period based on the applicable local area unemployment statistics produced by the United States Department of Labor, Bureau of Labor Statistics.

(2) The county ranks among the 33 Iowa counties with the highest average annualized unemployment rates for the most recent five-year period based on the applicable local area unemployment statistics produced by the United States Department of Labor, Bureau of Labor Statistics.

(3) The county ranks among the 33 Iowa counties with the lowest annual average weekly wages based on the most recent quarterly census of employment and wages published by the United States Department of Labor, Bureau of Labor Statistics.

(4) The county ranks among the 33 Iowa counties with the highest family poverty rates based on the most recent American Community Survey five-year estimate released by the United States Census Bureau.

(5) The county ranks among the 33 Iowa counties with the highest percentage population loss. Percentage population loss shall be calculated by comparing the most recent population estimate produced by the United States Census Bureau to the most recent decennial census released by the United States Census Bureau, except for a calendar year in which the decennial census data is released, in which case the percentage population loss shall be calculated by comparing the population in the decennial census released that calendar year to the population in decennial census released ten years prior.

(6) The county ranks among the 33 Iowa counties with the highest percentage of persons 65 years of age or older based on the most recent American Community Survey five-year estimate released by the United States Census Bureau.

c. The authority may designate a county that does not meet at least three of the criteria in paragraph 174.6(3) “b” as an economically distressed area if a business located in the county experiences a layoff or a closure that has a significant impact on a community within the county.

(1) Factors the authority will consider in determining whether a layoff or closure has a significant impact on a community within the county include, but are not limited to, total number of employees impacted, percentage of the applicable laborshed impacted, number of employees impacted as a percentage of population, current unemployment rate, and unemployment rate including the employees affected by a layoff or closure.

(2) A city or county shall request designation of a county as an economically distressed area pursuant to this paragraph in writing. Such requests are subject to approval by the board. Requests may be made simultaneously with a project application that would qualify for a lower qualifying wage threshold requirement pursuant to this subrule if the request is approved.

~~*e. d.*~~ The authority will update the list of economically distressed areas, including those designated pursuant to paragraph 174.6(3) “c,” according to the same schedule as the qualifying wage thresholds

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

are updated pursuant to subrule 174.2(1) and will apply the provisions of subrule 174.2(2) to the list of economically distressed areas in the same manner.

174.6(4) and 174.6(5) No change.

ITEM 7. Amend rule 261—174.8(15) as follows:

261—174.8(15) Benefit requirements—prior to July 1, 2009. This rule regarding benefit requirements applies to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department.

Program	Benefit Requirement	Deductible Requirements	Is a monetary equivalent to benefits allowed?	Benefits Counted Toward Monetary Equivalent
EZ	80% medical and dental coverage, single coverage only OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short-/long-term disability insurance -Vision insurance -Child care
HQJC	No benefit requirement (If, however, the company does not provide 80% medical and dental coverage for a single employee, the award will be reduced by 10%.)	\$750 maximum for single coverage/ \$1500 maximum for family coverage	No (Providing 80% medical and dental coverage for a single employee is one of eight qualifying criteria the company may use to qualify for the program. Monetary equivalent of other benefits is not considered.)	Not applicable
CEBA	80% medical and dental for single employees OR 50% medical and dental for family coverage OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short-/long-term disability insurance -Vision insurance -Child care -Other documented benefits offered to all employees (i.e., uniforms, tuition reimbursement, etc.)
VAAPFAP	Not applicable	Not applicable	Not applicable	Not applicable
PIAP	Not applicable	Not applicable	Not applicable	Not applicable
EVA	Not applicable	Not applicable	Not applicable	Not applicable
TSBFAP	Not applicable	Not applicable	Not applicable	Not applicable

ITEM 8. Amend rule 261—174.9(15) as follows:

261—174.9(15) Sufficient benefits requirement—on or after July 1, 2009.

174.9(1) Requirement. To be eligible to receive state financial assistance, project completion assistance, or tax incentives, applicants shall offer sufficient benefits to each FTE permanent position. The term “sufficient benefits” is defined in rule 261—173.2(15). ~~The board may consider alternative benefits packages or may adjust the requirement described in this rule~~ applicable sufficient benefits requirement shall be periodically approved by the board to reflect the most current benefits package typically offered by employers.

174.9(2) Options. ~~An employer meeting one of the following options will be found to meet the sufficient benefits requirement:~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Option 1 80% Single Coverage	Option 2 50% Family Coverage	Option 3 Monetary Equivalent
Pay 80% of premium costs for a standard medical and dental plan, single coverage. \$750 maximum deductible	Pay 50% of premium costs for a standard medical and dental plan, family coverage. \$1,500 maximum deductible	Provide medical and pay the monetary equivalent of Option 1 or Option 2 in supplemental employee benefits. Benefits Counted Toward Monetary Equivalent <ul style="list-style-type: none"> • Medical coverage • Dental coverage • Vision insurance • Life insurance • Pension • 401(k) (company's average contribution) • Short-/long-term disability insurance • Child care services • Other nonwage compensation

ITEM 9. Amend **261—Chapter 174**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 15 and 15E and ~~2011 Iowa Code Supplement chapter 15G, subchapter I.~~

ARC 6482C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to open enrollment and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 6, “Appeal Procedures,” Chapter 17, “Open Enrollment,” and Chapter 36, “Extracurricular Interscholastic Competition,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5) and 2022 Iowa Acts, House File 2589.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 282.18 and 290.1 as amended by 2022 Iowa Acts, House File 2589.

Purpose and Summary

2022 Iowa Acts, House File 2589, division VI, eliminates open enrollment deadlines, eliminates remaining open enrollment appeal rights to the Iowa State Board of Education, and makes conforming changes, including changes to athletic eligibility. The division is effective upon enactment. This proposed rule making reflects the changes made by House File 2589.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. According to the Notes on Bills and Amendments for 2022 Iowa Acts, House File 2589, “Open enrollment applications and transportation reimbursements are expected to increase; however, the extent to which each district may experience a fiscal impact cannot be estimated at this time.”

EDUCATION DEPARTMENT[281](cont'd)

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 September 13, 2022. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: 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:

September 13, 2022
9:30 to 10 a.m.

State Board Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
idoe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFczErSzNBcWxsUT09

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).

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 6483C**, IAB 8/24/22). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 6485C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to charter school funding
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 19, “Charter Schools,” 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, 2022 Iowa Acts, House File 2575.

Purpose and Summary

This proposed rule making revises charter school funding in accordance with the requirements of 2022 Iowa Acts, House File 2575.

Fiscal Impact

This rule making has the following fiscal impact to the State of Iowa, according to the Notes on Bills and Amendments: “An estimated 275 students will attend a charter school who were not included in the actual enrollment of the district of residence for FY 2023. The Department of Education will pay to the charter schools an estimated \$2,600,000 from the General Fund standing unlimited appropriation for charter school funding during FY 2023.”

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 September 13, 2022. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: 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:

EDUCATION DEPARTMENT[281](cont'd)

September 13, 2022
10 to 10:30 a.m.

State Board Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via video conference:
idoe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFcjErSzNBcWxsUT09

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 State Board 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).

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 6486C**, IAB 8/24/22). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 6484C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to preparation programs for teacher interns, practitioners and administrators and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 77, "Standards for Teacher Intern Preparation Programs," and Chapter 79, "Standards for Practitioner and Administrator Preparation Programs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 256.7(5) and 256.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.16 as amended by 2022 Iowa Acts, House File 2081.

Purpose and Summary

2022 Iowa Acts, House File 2081, eliminates the requirement that practitioner preparation programs report the results of program entrance examinations to the Department of Education, as well as the requirement that teacher candidates pass a program completion assessment. This proposed rule making reflects the changes made by House File 2081.

EDUCATION DEPARTMENT[281](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. There was no Fiscal Note accompanying 2022 Iowa Acts, House File 2081.

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 September 13, 2022. 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: 515.281.8661
Email: 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:

September 13, 2022
9 to 9:30 a.m.

State Board Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
[idoe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFczErSzNBcWxsUT09](https://doe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFczErSzNBcWxsUT09)

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:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend paragraph 77.11(2)“a,” introductory paragraph, as follows:

~~a. Acceptance into the program (to include testing described in Iowa Code section 256.16). Acceptance requirements include but are not limited to:~~

ITEM 2. Amend paragraph 77.11(2)“c” as follows:

~~c. Program completion and subsequent recommendation by the authorized official of the program for an initial teaching license, to include:~~

~~(1) The requirement that each teacher candidate must either meet or exceed a score on subject assessments designed by a nationally recognized testing service that measures pedagogy and knowledge of at least one subject area as approved by the director, or the teacher candidate must meet or exceed the equivalent of a score on an alternate assessment also approved by the director. That alternate assessment must be a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates that is centered on student learning. The required passing score will be determined by the director using considerations described in Iowa Code section 256.16(1)“a”(2) as amended by 2019 Iowa Acts, Senate File 159, section 2. A candidate who successfully completes the practitioner preparation program as required under this subparagraph shall be deemed to have attained a passing score on the assessments administered under this subparagraph even if the department subsequently sets different minimum passing scores.~~

~~(2) Waiver by the director of the assessment requirements in this paragraph for not more than one year for a person who has completed the course requirements for an approved intern preparation program but attained an assessment score below the minimum passing score set by the department for successful completion of the program under this paragraph. The department shall forward to the BOEE the names of all candidates granted a waiver for consideration for a temporary license.~~

~~(3) Recommendation recommendation for an intern license for one or more of the endorsements identified on the department’s teacher preparation website at www.educateiowa.gov/pk-12/educator-quality/practitioner-preparation educateiowa.gov/pk-12/educator-quality/practitioner-preparation.~~

ITEM 3. Amend subrule 79.13(4) as follows:

79.13(4) Candidate assessment includes clear criteria for:

~~a. Entrance into the program. If a unit chooses to use a preprofessional skills test from a nationally recognized testing service for admission into the program, the unit must report passing rates and remediation measures annually to the department.~~

~~b. Continuation in the program with clearly defined checkpoints/gates.~~

~~c. Admission to clinical experiences (for teacher education, this includes specific criteria for admission to student teaching).~~

~~d. Program completion (for teacher education, this includes testing described in Iowa Code section 256.16; see subrule 79.15(5) for required teacher candidate assessment).~~

ITEM 4. Rescind and reserve subrule 79.15(6).

ARC 6469C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to five-year rules review and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 38, “Developmental Disabilities Basic State Grant,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 225C.3 and 225C.6.

HUMAN SERVICES DEPARTMENT[441](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 225C.3 and 225C.6.

Purpose and Summary

This chapter was reviewed as part of the Department's five-year rules review. The proposed rule making updates the definition of "developmental disability" to include infants and children starting at birth and increase the age limit from five to nine years old. An Iowa Code reference is also proposed to be updated.

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 **441—38.1(225C,217)**, definition of "Developmental disability," as follows:
"Developmental disability" means a severe, chronic disability of a person ~~5 years of age or older~~ which is attributed to a mental or physical impairment or a combination of mental and physical

HUMAN SERVICES DEPARTMENT[441](cont'd)

impairments₂; is manifested before the person attains the age of 22₂; is likely to continue indefinitely₂; substantially limits the person's ability to carry out major life activities in at least three of the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency₂; and reflects an ongoing need for individualized, coordinated services. The term, when applied to infants and children from birth to the age of 5 nine, means a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

ITEM 2. Amend rule 441—38.4(225C,217), introductory paragraph, as follows:

441—38.4(225C,217) Conflict of interest policy. All Iowa DD council members and those serving in an advisory capacity to the Iowa DD council as defined described in 441—~~subparagraph 1.7(8) “c”~~(2) Iowa Code section 225C.5 shall not engage in activities that present a conflict of interest.

ARC 6472C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to facility participation and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 54, “Facility Participation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249.

Purpose and Summary

Chapter 54 was reviewed as part of the Department's five-year rules review. As part of this review, the word “enterprise” is proposed to be removed from the name of Iowa Medicaid. Form names are also proposed to be removed from the rules. The proposed amendments align residential care facilities (RCFs) rules with existing policy. RCFs no longer use cost reporting but instead have a set per diem that changes annually, and these amendments reflect those changes.

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 441—54.1(249) as follows:

441—54.1(249) Application and contract agreement. Each facility desiring to participate in the state supplementary assistance program must enter into a contract with the department of human services and agree to the provisions as enumerated in Form 470-0443, ~~Application and Contract Agreement for Residential Care Facilities~~. The effective date of the contract shall be the first of the month that the ~~Application and Contract Agreement for Residential Care Facilities~~, form is signed by the administrator of the facility, and is received by the department. No payment shall be made for care provided before the effective date of the contract. The contract shall be in effect until the department ceases to participate in the program, until either party gives 60 days' notice of termination in writing to the other party, or until there is a change in ownership. The facility shall notify the department within 30 days of a change in ownership, a change in the number of beds or a change in administrator.

This rule is intended to implement Iowa Code section 249.12.

ITEM 2. Amend rule 441—54.2(249) as follows:

441—54.2(249) Maintenance of case records. A facility must maintain a case folder for each individual residing in the facility which contains the following:

1. Contract between the facility and the resident on Form 470-0477, ~~RCF Admission Agreement~~.
2. and 3. No change.

This rule is intended to implement Iowa Code section 249.12.

ITEM 3. Amend rule 441—54.3(249), introductory paragraph, as follows:

441—54.3(249) ~~Payment~~ Payments for residential care facilities. Payments for ~~privately-operated~~ residential care facilities will be made at the maximum per diem rate in 441—subrule 52.1(3).

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~Non privately operated facilities wishing to participate in the program shall submit a Financial and Statistical Report, Form 470-0030, to the department. The reports shall be based on the following rules.~~

ITEM 4. Amend subrule 54.3(1) as follows:

54.3(1) *Failure to maintain records.* Failure to adequately maintain fiscal records, including census records, medical charts, ledgers, journals, tax returns, canceled checks, source documents, invoices, and audit reports by or for a facility may result in the penalties specified in subrule 54.8(1) rule 441—79.3(249A).

ITEM 5. Rescind subrules **54.3(2) to 54.3(11)**.

ITEM 6. Renumber subrule **54.3(12)** as **54.3(2)**.

ITEM 7. Amend renumbered subrule 54.3(2) as follows:

54.3(2) *Termination or change of owner ownership.*

~~a.~~ A participating facility contemplating termination of participation or negotiating a change of ownership shall provide the department of human services with at least 60 days prior notice. A transfer of ownership or operation terminates the participation agreement. A new owner or operator shall establish that the facility meets the conditions for participation and enter into a new agreement. ~~The person responsible for transfer of ownership or for termination is responsible for submission of a final financial and statistical report through the date of the transfer. No payment to the new owner shall be made until formal notification is received. The following situations are defined as transfer of ownership:~~

~~(1) In the case of a partnership which is a party to an agreement to participate in the residential care program, the removal, addition, or substitution of an individual for a partner in the association, in the absence of an express statement to the contrary, dissolves the old partnership and creates a new partnership which is not a party to the previously executed agreement and a transfer of ownership has occurred.~~

~~(2) When a participating nursing home is a sole proprietorship, a transfer of title and property to another party constitutes a change of ownership.~~

~~(3) When the facility is a corporation, neither a transfer of corporate stock nor a merger of one or more corporations with the participating corporation surviving is a transfer of ownership. A consolidation of two or more corporations resulting in the creation of a new corporate entity constitutes a change of ownership.~~

~~(4) When a participating facility is leased, in whole or in part, a transfer of ownership is considered to have taken place.~~

~~b.~~ Upon change of ownership, the new owner or operator shall furnish the department with an appraisal made by a department approved appraiser. The appraisal shall be based on market values.

~~c.~~ The new owner or operator shall either continue the previous owner's depreciation schedule or set up a new depreciation schedule using the amount obtained by deducting the depreciation expense incurred since July 1, 1980, from the value of depreciable real property. The value will be the sale price or appraisal value, whichever is less.

ITEM 8. Rescind subrules **54.3(13) to 54.3(15)**.

ITEM 9. Amend rule **441—54.3(249)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249.12 and 1992 Iowa Acts, chapter 1241, section 33, subsection 3.

ITEM 10. Amend rule 441—54.5(249), introductory paragraph, as follows:

441—54.5(249) Personal needs account. When a facility manages the personal needs funds of a resident, it shall establish and maintain a system of accounting for expenditures from the resident's personal needs funds. The personal needs funds shall be deposited in a single checking account, not commingled with trust funds from any other facility, nor commingled with facility operating funds except for facility funds, not to exceed \$500, deposited to cover bank charges and have in the account name the terms "Resident Trust Funds." The funds shall be deposited in a bank or other institution within the state of Iowa insured by the federal government. Expense for bank service charges for this

HUMAN SERVICES DEPARTMENT[441](cont'd)

account is ~~an allowable audit cost under rule 441—54.3(249)~~ a cost of doing business if the service cannot be obtained free of charge. The department shall charge back to the facility any maintenance item included in the computation of the audit cost that is charged to the resident's personal needs allowance when such charge constitutes double payment. Unverifiable expenditures charged to personal needs accounts may be charged back to the facility. The accounting system is subject to audit by representatives of the Iowa department of human services, and shall meet the following criteria:

ITEM 11. Amend rule 441—54.6(249) as follows:

441—54.6(249) Case activity report. ~~A Case Activity Report~~, Form 470-0042, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, or is discharged from the facility.

This rule is intended to implement Iowa Code section 249.12.

ITEM 12. Amend rule 441—54.7(249), introductory paragraph, as follows:

441—54.7(249) Billing procedures. In order to determine the amount of payment to the recipient, the facility shall submit a billing form to the Iowa Medicaid enterprise following the month in which service was provided.

ITEM 13. Rescind subrules **54.7(1)** and **54.7(2)**.

ITEM 14. Rescind and reserve rule **441—54.8(249)**.

ARC 6474C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to eligibility for the home- and community-based services habilitation program and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

The purpose of this proposed rule making is to amend the needs-based and risk-based eligibility criteria for the Home- and Community-Based Services (HCBS) Habilitation program to reflect the changes to the state plan amendment that the Centers for Medicare and Medicaid Services require as a condition of approval because of the maintenance of effort requirements established by the American Rescue Plan Act of 2021, Section 9817. The enhanced Federal Medicaid Assistance Percentage for HCBS services requires states to not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021.

Federal rules require that individuals who were found eligible for the state plan HCBS benefit before modification of the needs-based criteria under this state plan adjustment must remain eligible for the HCBS benefit until such time as:

1) The individual no longer meets the needs-based criteria used for the initial determination of eligibility; or

HUMAN SERVICES DEPARTMENT[441](cont'd)

2) The individual is no longer eligible for or enrolled in Medicaid, or the individual is no longer enrolled in the HCBS benefit.

This means that if a member met the initial needs-based eligibility criteria using the interRAI screening tool and would have continued to meet the eligibility criteria were it not for the change in assessment and criteria, the member must remain eligible for habilitation services until the member no longer meets the needs-based eligibility criteria that had been determined using the interRAI tool prior to the change in the assessment tool and needs-based eligibility criteria.

Iowa Medicaid is permitted to modify the needs-based criteria pursuant to 42 CFR 441.715 and will follow all applicable requirements outlined in these proposed rules.

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 action is proposed:

Amend subrule 78.27(2) as follows:

78.27(2) Member eligibility. To be eligible to receive home- and community-based habilitation services, a member shall meet the following criteria:

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~a. Age.~~ The member is at least 16 years of age or older.

~~b. a. LOCUS/CALOCUS actual disposition.~~ The member has a LOCUS/CALOCUS actual disposition of level one recovery maintenance and health management or higher on the most current LOCUS/CALOCUS assessment completed within the past 30 days.

~~c. b. Risk factors.~~ The member has at least one of the following risk factors:

(1) ~~The member has undergone or is currently undergoing psychiatric treatment more intensive than outpatient care (e.g., crisis response services, subacute mental health services, emergency services, alternative home care, partial hospitalization, or inpatient hospitalization) more than once in the member's life~~ The individual has a history of inpatient, partial hospitalization, or emergency psychiatric treatment more than once in the individual's life; or

(2) ~~The member is currently receiving habilitation or integrated health home services~~ The individual has a history of continuous professional psychiatric supportive care other than hospitalization; or

(3) ~~The member has a history of severe and persistent mental illness resulting in at least one episode of continuous, professional supportive care other than hospitalization (e.g., counseling, therapy, assertive community treatment, or medication management)~~ The individual has a history of involvement with the criminal justice system; or

(4) ~~The member has a history of severe and persistent mental illness resulting in involvement in the criminal justice system (e.g., prior incarceration, parole, probation, criminal charges, jail diversion program or mental health court)~~ Services available in the individual's community have not been able to meet the individual's needs; or

(5) ~~Traditional mental health services available in the member's community have not been able to meet the member's needs.~~ The individual has a history of unemployment or employment in a sheltered setting or poor work history; or

(6) The individual has a history of homelessness or is at risk of homelessness.

~~d. c. Need for assistance.~~ The member individual has a need for assistance ~~or is likely to need assistance related to functional impairment arising out of a mental health diagnosis typically demonstrated by meeting at least two of the following criteria on a continuing or intermittent basis for at least 12 months:~~

(1) ~~The member is unemployed, is employed in a sheltered setting, or has markedly limited skills and a poor work history, and the member is currently receiving employment services or the member has a need for employment services to obtain or maintain employment~~ The individual needs assistance to obtain or maintain employment.

(2) ~~The member individual requires financial assistance to reside independently in the community or may be homeless or at risk of homelessness if unable to procure this assistance without help.~~

(3) ~~The member shows significant inability~~ individual needs significant assistance to establish or maintain a personal social support system.

(4) ~~The member requires help in basic living skills such as self-care, money management, housekeeping, cooking, and medication management~~ The individual needs assistance with at least one of the activities of daily living (ADLs) or instrumental activities of daily living (IADLs) to reside independently in the community.

(5) ~~The member exhibits social behavior that puts the member's safety or others' safety at risk, which results in the need for service intervention which may include crisis management or protective oversight~~ The individual needs assistance with management and intervention of maladaptive or antisocial behaviors to ensure the safety of the individual or others.

~~e. d. Income.~~ The countable income used in determining the member's Medicaid eligibility does not exceed 150 percent of the federal poverty level.

~~f. e. Needs assessment.~~ The LOCUS or CALOCUS tool has been completed in the LOCUS online system, and using the algorithm developed by Deerfield Solutions to derive the actual disposition score based on the comprehensive assessment and social history (CASH) completed by the integrated health home (IHH) or community-based case manager (CBCM) during a face-to-face interview with the member and the member's representative as applicable, and based on information submitted on

HUMAN SERVICES DEPARTMENT[441](cont'd)

the information submission tool and other supporting documentation as relevant, the IME medical services unit has determined that the member is in need of home- and community-based habilitation services. The LOCUS/CALOCUS information submission tools are available on request from the IME medical services unit. Copies of the information submission tool for an individual are available to that individual from the individual's case manager, integrated health home care coordinator, or managed care organization. The designated case manager or integrated health home care coordinator shall:

(1) and (2) No change.

~~g. f.~~ *Plan for service.* The department or the member's managed care organization has approved the member's comprehensive service plan for home- and community-based habilitation services. Home- and community-based habilitation services included in a comprehensive service plan or treatment plan that has been validated by the IME or the member's managed care organization shall be considered approved by the department. Home- and community-based habilitation services provided before approval of a member's eligibility for the program cannot be reimbursed.

(1) to (4) No change.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to cost report reviews and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

The proposed amendments were drafted in collaboration with a stakeholder workgroup in response to proposed legislation regarding utilization of generally accepted accounting principles (GAAP) in completion of cost report reviews. The proposed amendments are based on provider feedback and Department analysis of the impact to providers. Proposed changes are made that are a benefit to providers and members and do not require legislation to move forward.

The proposed amendments to the Home- and Community-Based Services (HCBS) Waiver cost reporting requirements are as follows:

- Clarify the programs that submit cost reports.
- Correct Financial and Statistical Report form numbers.
- Remove the 20 percent limitation from all HCBS salary, benefit and payroll tax expenses.
- Retain, with no changes, the current limitation on all other HCBS expenses.
- Change the mileage reimbursement for business use of personal employee vehicles to be reimbursed according to the federal Internal Revenue Service's (IRS's) published mileage rate.
- Change the cost reporting period to align with the provider's fiscal year.
- Set the maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative, equal to the intermediate care facility for persons with an intellectual disability maximum compensation for facilities with 60 beds or more pursuant to subparagraph 82.5(11)"e"(4). Currently this is limited by the 20 percent limitation on wages, benefits and taxes.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Provide definitions for the terms reasonable and necessary, related party, ownership, and control.
- Add rebasing language for recalculation of rates every three years for HCBS brain injury (BI) waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency to be consistent with intellectual disability (ID) waiver rebasing.

Fiscal Impact

This rule making could potentially increase the amount of reportable costs for the following services:

- ID Waiver Supported Community Living (15-minute unit).
- BI Waiver Supported Community Living (15-minute unit).
- BI Waiver Supported Community Living (daily unit).
- Community Mental Health (CMH) Waiver Family and Community Support Services.
- Interim Medical Monitoring and Treatment for the BI, Health and Disability (HD), and ID waivers.

An increase in reportable costs could increase Medicaid provider rates. The prospective rates for established providers are capped at the upper rate limits in subrule 79.1(2). Across these services, there are currently 134 of 238 providers paid below the upper rate limit. It is unclear by how much provider rates will increase because of these amendments. A high-end estimate assumes rates for all 134 providers will increase to the upper limit as a result of these amendments. A low-end estimate assumes no providers experience an increase to current rates. The fiscal estimate is based on the midpoint of these two scenarios. Assumptions used to calculate the fiscal impact are based on the number of providers not currently paid at maximum rates relative to state fiscal year 2020 fee-for-service utilization. A midpoint estimate was used. It is estimated that the impact would be approximately \$300,000 total; the state-only fiscal impact would be \$100,000. This fiscal analysis is only based on fee-for-service utilization. The managed care organizations (MCOs) and the providers must negotiate the providers' reimbursement rates.

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 subparagraph **79.1(1)“e”(3)** as follows:

(3) The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment ~~based on the provider's actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 4.5 percent. pursuant to paragraph 79.1(15)“f.”~~

ITEM 2. Amend subrule 79.1(15), introductory paragraph, as follows:

79.1(15) *HCBS retrospectively limited prospective rates.* This methodology applies to reimbursement for HCBS brain injury waiver supported community living; HCBS intellectual disability waiver supported community living for 15-minute services; HCBS children's mental health waiver family and community support services; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency under an HCBS intellectual disability waiver, brain injury waiver, or health and disability waiver.

ITEM 3. Rescind paragraph **79.1(15)“a”** and adopt the following **new** paragraph in lieu thereof:

a. Reporting requirements.

(1) Providers shall submit the complete Form 470-5477. The provider shall email the report and required supplemental information to costaudit@dhs.state.ia.us. The provider shall mail one signed copy of the certification page to the Iowa Medicaid Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, no later than the due date of the required electronic submissions.

(2) Regardless of the period for the provider's fiscal year, the provider shall submit a financial and statistical report for the period of July 1, 2021, through June 30, 2022. For provider fiscal periods beginning on or after July 1, 2022, the provider shall submit a financial and statistical report coinciding with the provider's fiscal year.

(3) The provider shall submit the financial and statistical report on or before the last day of the third month following the end of the cost reporting period.

(4) A certified home health agency enrolled to deliver HCBS that is required to submit a Medicare cost report may request a 60-day extension for submitting the financial and statistical cost report. All other providers may request a 30-day extension for submitting the financial and statistical report. All requests must be submitted in writing to the Iowa Medicaid provider cost audit and rate setting unit by the financial and statistical report due date. No other extensions will be granted.

(5) If a provider terminates its participation in any HCBS program or service, the provider shall submit a final financial and statistical report on or before the sixtieth day following the date of termination for retrospective adjustment in accordance with subparagraph 79.1(15)“f”(1).

(6) Providers failing to submit a financial and statistical report that meets the requirements of this paragraph within the time frames set forth in subparagraph 79.1(1)“a”(3) or 79.1(1)“a”(4), as

HUMAN SERVICES DEPARTMENT[441](cont'd)

applicable, shall reduce payment to 76 percent of the current rate. The reduced rate shall be paid for not longer than three months, after which time no further payments will be made.

(7) Providers shall submit a completed financial and statistical report in an electronic format that can be opened using the extension xls or xlsx. The provider shall submit supplemental documentation in a generally accepted business format.

(8) Along with its financial and statistical report, the provider shall include a working trial balance that corresponds to the data contained on the financial and statistical report. Financial and statistical reports submitted without a working trial balance will be considered incomplete.

(9) The provider's financial data within the financial and statistical report shall be based on the provider's financial records. When the records are not based on the accrual basis of accounting, the provider shall make adjustments necessary to convert the information to an accrual basis for reporting.

(10) Providers of multiple programs or services shall submit a cost allocation schedule. The schedule must identify an allocation method for each expense account, including the statistics used in the calculation.

(11) Providers shall not report costs to any waiver service that are costs of any other program or public or private funding sources, including but not limited to the Medicaid state plan; Medicare; other state, local or federal funded programs; and private funding sources. Providers shall not report costs of HCBS waiver services as a cost of any other public or private funding source.

(12) Iowa Medicaid or its designee may review or audit financial and statistical reports as filed to determine the actual cost of services in accordance with generally accepted accounting principles or Medicare cost principles published in Centers for Medicare and Medicaid Services Publication §15-1, subject to the exceptions and limitations in the department's administrative rules and financial and statistical report instructions.

(13) Failure to maintain records to support the financial and statistical report and make them available to the department or its designee upon request may result in adjustment, payment reduction, or sanction including but not limited to termination of the provider's HCBS certification.

(14) When adjustments made to prior reports indicate noncompliance with reporting instructions or the provider has a history of inadequate documentation to support the financial and statistical report, the department may require that an external accountant experienced with cost report preparation prepare the financial and statistical report or that a certified public accountant complete a review or examination of the financial and statistical report or cost allocation methodology.

ITEM 4. Rescind paragraph **79.1(15)“b”** and adopt the following new paragraph in lieu thereof:

b. Home- and community-based general rate criteria.

(1) To receive reimbursement for services, a certified provider shall enter into an agreement with the department on Form 470-2918 and have an approved service plan for the member.

(2) The rates a provider may charge are subject to limits established in subrule 79.1(2).

(3) Twenty percent identified cost limitation.

1. The following identified costs are not subject to the 20 percent limitation; however, the following costs are used to calculate the limitation:

- Wages, benefits, and payroll taxes.
- Direct care transportation expense—with and without member present.
- Direct care development, training, and supplies.
- Member-specific assistance.
- Member-specific equipment repair or purchase.

2. For each waiver service, the sum of reported costs not identified in numbered paragraph 79.1(15)“b”(3)“1” is limited to 20 percent of the identified costs in numbered paragraph 79.1(15)“b”(3)“1.”

(4) Mileage reimbursement for business use of personal employee vehicles shall be limited to the federal Internal Revenue Service's (IRS's) published mileage rate in effect during the cost reporting period.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) Compensation for services of owners or immediate relatives is an allowable cost, provided the services are actually performed in a necessary function and do not exceed the maximum allowed compensation as described in numbered paragraphs 79.1(15)“b”(5)“5” and “6.”

1. “Ownership” is defined as an interest of 5 percent or more. For this purpose, the following persons are considered immediate relatives: husband, wife, natural or adoptive parent, natural or adoptive child, natural or adoptive sibling, step-parent, step-child, step-sibling, parent-in-law, child-in-law, sibling-in-law, grandparent, or grandchild. Adequate time records shall be maintained.

2. “Compensation” means the total benefit received by the owner or immediate relative for services rendered. Compensation includes all remuneration, paid currently or accrued, for managerial, administrative, professional and other services rendered during the period. Compensation shall include all items that should be reflected on IRS Form W-2, Wage and Tax Statement, including but not limited to salaries, wages, and fringe benefits; the cost of assets and services received; and deferred compensation. Fringe benefits shall include but are not limited to costs of leave, employee insurance, pensions and unemployment plans. If the facility’s fiscal year end does not correlate to the period of the W-2, a reconciliation between the latest issued W-2 and current compensation shall be required to be disclosed to Iowa Medicaid or its designee. Employer portions of payroll taxes associated with amounts of compensation that exceed the maximum allowed compensation shall be considered unallowable for reimbursement. Providers shall report all compensation paid to related parties, including payroll taxes, on the financial and statistical report.

3. “Reasonableness” requires that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable providers, and depends upon the facts and circumstances of each case.

4. “Necessary” requires that the function be such that had the owner or immediate relative not rendered the services, the facility would have had to employ another person to perform the service, and be pertinent to the operation and sound conduct of the institution.

5. The maximum allowed compensation for the executive director, corporate executive officer, or equivalent position, who is an owner or immediate relative, is equal to the intermediate care facility for persons with an intellectual disability maximum compensation for facilities with 60 beds or more pursuant to 441—subparagraph 82.5(11)“e”(4).

6. The maximum allowed compensation for any other owner or immediate relative is 60 percent of the amount allowed in numbered paragraph 79.1(15)“b”(5)“5.”

7. The provider shall maintain records in the same manner for an owner or immediate relative compensated by the agency as are maintained for any employee of the agency, including but not limited to employment records, timekeeping, and payroll records.

8. The maximum allowed compensation for owners and immediate relatives shall be adjusted by the percentage of the average workweek devoted to business activity during the fiscal year of the financial and statistical report. The time devoted to the business shall be disclosed on the financial and statistical report. If an owner’s or immediate relative’s time is allocated to the facility from another entity (e.g., home office), the compensation limit shall be adjusted by the percentage of total costs of the entity allocated to the facility. In no case shall the amount of salary for one owner or immediate relative allocated to multiple facilities be more than the maximum allowed compensation for that employee had the salary been allocated to only one agency.

9. Costs applicable to services, facilities, and supplies furnished to the provider by a person or organization related to the provider by common ownership or control are a reimbursable cost when included at the cost to the related party or organization. The cost shall not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

- “Related” means that the agency, to a significant extent, is associated with or has control of or is controlled by the organization furnishing the services, facilities, or supplies.

- Common ownership exists when an individual or individuals possess significant ownership or equity in the facility and the institution or organization serving the provider.

- Control exists where an individual or an organization has power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- A provider may lease a facility from a related person or organization. In such case, the rent paid to the lessor by the provider is not allowable as a cost. The provider, however, would include in its cost the costs of ownership of the facility. This includes depreciation, interest on the mortgage, real estate taxes, and other expenses attributable to the leased facility.

- An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence that the criteria in numbered paragraph 79.1(15) “b”(5) “10” have been met.

10. The agency must demonstrate the following with convincing evidence. Where all of the conditions below are met, the charges by the supplier to the provider for such services, facilities, or supplies are allowable as costs.

- The supplying organization is a bona fide separate organization;
- A substantial part of its business activity of the type carried on with the facility is transacted with others and there is an open competitive market for the type of services, facilities, or supplies furnished by the organization;
- The services, facilities, or supplies are those which commonly are obtained by similar institutions from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by the institutions; and
- The charge to the agency is in line with the charge for services, facilities, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for the services, facilities, or supplies.

ITEM 5. Rescind paragraph **79.1(15)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Prospective rates for new providers.

(1) “New providers” means providers who have not submitted an annual report including at least six months of actual, historical costs of operations for any service as listed in subrule 79.1(15).

(2) New providers shall be paid prospective rates based on projected reasonable and proper costs of operation for a 12-month period.

(3) Projected costs of any new service, as listed in subrule 79.1(15), shall be submitted on Form 470-5477.

(4) Prospective rates shall be subject to retrospective adjustment as provided in paragraph 79.1(15) “f.”

(5) After a provider has submitted an annual report including at least six months of actual, historical costs, prospective rates shall be determined as provided in paragraph 79.1(15) “d.”

ITEM 6. Rescind paragraph **79.1(15)“d”** and adopt the following **new** paragraph in lieu thereof:

d. Prospective rates for established providers.

(1) “Established providers” means providers who have submitted an annual report including six months of actual, historical costs of operation.

(2) The prospective rate will be adjusted annually, effective the first day of the third month after the month during which the annual financial and statistical report is submitted to the department.

(3) The provider’s prospective rate shall be the lower of:

1. The provider’s reasonable and proper actual cost-based rate as calculated by the provider’s most recent financial and statistical report and adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending as of the provider’s fiscal year end,

2. In the first year of reporting six months of actual, historical costs of operation, or a year in which the provider’s base rate is recalculated, the base rate is equal to the amount calculated in numbered paragraph 79.1(15) “d”(3) “1,”

3. In a year in which the provider’s base rate is not recalculated, the prior period base rate adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending as of the provider’s fiscal year end, or

4. The upper rate limit pursuant to subrule 79.1(2).

- (4) Recalculation of base rates (rebasing).

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. For providers of HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency, the base rates will be recalculated based on the reasonable and proper actual costs of operation as calculated by the fiscal year 2022 financial and statistical report.

2. For providers of HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency; and 15-minute HCBS intellectual disability waiver supported community living services, the base rates will be recalculated based on the reasonable and proper costs of operation for the provider's fiscal year ending on or after January 1, 2024.

3. Subsequent to the recalculation of base rates in numbered paragraph 79.1(15)“d”(4)“2,” a provider's base rate shall be recalculated no less than every three years.

(5) Prospective rates shall be subject to retrospective adjustment as provided in paragraph 79.1(15)“f.”

ITEM 7. Amend paragraph **79.1(15)“f”** as follows:

f. Retrospective adjustments.

(1) ~~Retrospective~~ For fee for service, retrospective adjustments shall be made based on reconciliation of provider's reasonable and proper actual service costs with the revenues received for ~~those services as reported on Form 470-3449, Supplemental Schedule, accompanying Form SS-1703-0, Financial and Statistical Report for Purchase of Service~~ 15-minute HCBS intellectual disability waiver supported community living services; HCBS brain injury waiver supported community living services; HCBS children's mental health waiver family and community support services; and interim medical monitoring and treatment services when provided by an HCBS-certified supported community living services agency under an HCBS intellectual disability waiver, brain injury waiver, and health and disability waiver, as reported on Form 470-5477, subject to the upper rate limit allowed in subrule 79.1(2).

~~(2) For services provided from July 1, 2015, through June 30, 2016, revenues exceeding adjusted actual costs by more than 4.5 percent shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.~~

~~(3) For services provided from July 1, 2015, through June 30, 2016, providers who do not reimburse revenues exceeding 104.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 104.5 percent of the actual costs deducted from future payments.~~

(4) (2) For services provided on or after July 1, 2016, revenues exceeding adjusted actual costs by more than 5.5 percent for fee for service shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.

~~(5) For services provided on or after July 1, 2016, providers who do not reimburse revenues exceeding 105.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 105.5 percent of the actual costs deducted from future payments.~~

(3) If a provider does not remit the amount of the overpayment identified in subparagraph 79.1(15)“f”(2) within 30 days after notice, the department will deduct the amount owed from future payments.

ITEM 8. Rescind paragraph **79.1(15)“g.”**

ARC 6476C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to child care centers, child development homes and child care homes and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 109, “Child Care Centers,” Chapter 110, “Child Development Homes,” and Chapter 120, “Child Care Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.12.

Purpose and Summary

Pursuant to 2022 Iowa Acts, House File 2589, this proposed rule making amends rules to allow persons defined as physicians under Iowa Code section 135C.1 to conduct well-child checks, to expand to include chiropractors, because well-child checks are within their scope of practice.

These proposed amendments also modify other regulatory reductions to licensed child care center regulations in an effort to ease burdens on licensed child care centers. The regulatory reductions are based on a survey that was conducted with licensed child care center directors in response to the Governor’s Child Care Task Force. These amendments include modifications to written policies, changes in allowable points for director and supervisor eligibility, updates in radon requirements, reducing training requirements for those in school-age-only populations, and allowing information sharing regarding completed record checks.

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Nancy Freudenberg
 Department of Human Services
 Hoover State Office Building, Fifth Floor
 1305 East Walnut Street
 Des Moines, Iowa 50319-0114
 Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 subrule 109.4(2) as follows:

109.4(2) Required written policies. The child care center owner, board or director shall:

- a.* No change.
- b.* Develop and implement policies for enrollment and discharge of children, field trips and non-center activities, ~~transportation~~, discipline, nutrition, ~~and~~ health and safety policies and, if transporting children, transportation policy.
- c. to f.* No change.
- g.* ~~Develop~~ When serving children under the age of three, develop and implement a policy for responding to incidents of biting that includes the following elements.
 (1) to (8) No change.
- h. and i.* No change.

ITEM 2. Amend paragraph **109.6(1)“e”** as follows:

e. Has achieved a total of 100 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

EDUCATION	EXPERIENCE (Points multiplied by	CHILD DEVELOPMENT-
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HUMAN SERVICES DEPARTMENT[441](cont'd)

		years of experience)	RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	50 60	Part-time (less than 20 hours per week) in a child care center or preschool setting	10
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40 45	Full-time (20 hours or more per week) child development-related experience	10
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	20 25	Registered child development home provider	10
		Nonregistered family home provider	5

(1) to (4) No change.

ITEM 3. Amend subrule 109.6(2) as follows:

109.6(2) On-site supervisor. The on-site supervisor is required to be present when the program has multiple sites or when a director is not routinely present for six hours daily. The center director must identify a person in charge during the on-site supervisor's absence. The on-site supervisor is responsible for the daily supervision of the center and must be on site daily either during the hours of operation that children are present or a minimum of ~~eight~~ six hours of the center's hours of operation. Information shall be submitted in writing to the child care consultant prior to the start of employment. Final determination shall be made by the department. Information shall be submitted sufficient to determine that the on-site supervisor meets the following minimum qualifications:

a. to c. No change.

d. Has achieved a total of 75 points obtained through a combination of education, experience, and child development-related training as outlined in the following chart:

HUMAN SERVICES DEPARTMENT[441](cont'd)

EDUCATION		EXPERIENCE (Points multiplied by years of experience)		CHILD DEVELOPMENT- RELATED TRAINING
Bachelor's or higher degree in early childhood, child development, or elementary education	75	Full-time (20 hours or more per week) in a child care center or preschool setting	20 25	One point per contact hour of training
Associate's degree in child development or bachelor's degree in a child-related field	50 60	Part-time (less than 20 hours per week) in a child care center or preschool setting	10	
Child development associate (CDA) or one-year diploma in child development from a community college or technical school	40 45	Full-time (20 hours or more per week) child development-related experience	10	
Bachelor's or higher degree in a non-child-related field	40	Part-time (less than 20 hours per week) child development-related experience	5	
Associate's degree in a non-child-related field or completion of at least two years of a four-year degree	20 25	Registered child development home provider	10	
		Nonregistered family home provider	5	

(1) to (4) No change.

ITEM 4. Amend subrule 109.6(3) as follows:

109.6(3) Director and on-site supervisor functions combined. In a center where the functions of the center director and the on-site supervisor are accomplished by the same person, the educational and experience requirements for a center director shall apply. If the center director is serving in the role of the on-site supervisor, the director shall be on site daily either during the hours of operation or a minimum of at least ~~eight~~ six hours of the center's hours of operation. If the staff person designated as the on-site supervisor is temporarily absent from the center, another responsible adult staff shall be designated as the interim on-site supervisor.

ITEM 5. Amend subparagraph **109.6(6)“d”**(6) as follows:

(6) A center considering involvement of a person who has had a national criminal history check at another center may request information from that center. That center may provide ~~the following that~~ information in writing upon a center's request, using Form 470-4896, ~~National Criminal History Check Confirmation~~. If the person being considered for employment has not had involvement with child care in the past six months, a new national criminal history check must be completed.

1. ~~Date of most recent national criminal history check conducted by the center on the person in question, and~~

2. ~~Whether or not the national check process resulted in clearance of the person for involvement with child care.~~

ITEM 6. Amend paragraph **109.7(1)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas:

(1) to (10) No change.

Minimum health and safety training may be required if content has significant changes which warrant that the training be renewed.

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(1)“e”(2) and 109.7(1)“e”(6).

ITEM 7. Amend paragraph **109.7(3)“e”** as follows:

e. Minimum health and safety trainings, approved by the department, in the following areas:

(1) to (10) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Child care staff employed in programs that only serve children over the age of three are exempt from taking health and safety trainings under subparagraphs 109.7(3) "e"(2) and 109.7(3) "e"(6).

ITEM 8. Amend paragraph **109.10(1)"a"** as follows:

a. *Preschool-age children.* For each child five years of age and younger not enrolled in kindergarten, the child care center shall require an admission physical examination report, submitted within 30 days from the date of admission, signed by a licensed medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner. The date of the physical examination shall be no more than 12 months prior to the first day of attendance at the center. The written report shall include past health history, status of present health including allergies, medications, and acute or chronic conditions, and recommendations for continued care when necessary. Annually thereafter, a statement of health condition, signed by a licensed medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner, shall be submitted that includes any change in functioning, allergies, medications, or acute or chronic conditions.

ITEM 9. Amend paragraph **109.10(15)"a"** as follows:

a. The center shall have written emergency plans and diagrams for responding to fire, tornado, and flood (if area is susceptible to flood); and plans for responding to ~~intruders within the center~~, intoxicated parents, and lost or abducted children. In addition, the center shall have guidelines for responding or evacuating in case of blizzards, power failures, bomb threats, chemical spills, ~~earthquakes~~, or other disasters that could create structural damage to the center or pose health hazards. If the center is located within a ten-mile radius of a nuclear power plant or research facility, the center shall also have plans for nuclear evacuations. Emergency plans shall include written procedures including plans for the following:

(1) to (7) No change.

ITEM 10. Amend subrule 109.11(4) as follows:

109.11(4) Bathroom facilities. At least one functioning toilet and one sink for each 15 children ages two years and older shall be provided in a room with natural or artificial ventilation. Training seats or chairs may be used for children under two years of age. New construction after November 1, 1995, shall provide for at least one sink in the same area as the toilet and, for centers serving children two weeks to two years of age, shall provide for at least one sink in the central diapering area. At least one sink shall be provided in program rooms for infants and toddlers or in an adjacent area other than the kitchen. New construction after April 1, 1998, shall have at least one sink provided in the program rooms for infants and toddlers.

ITEM 11. Amend subrule 109.11(7) as follows:

109.11(7) Environmental hazards.

a. No change.

b. Within one year of being issued an initial or renewal license, centers operating in facilities that are at ground level, use a basement area as program space, or have a basement beneath the program area shall have radon testing performed as ~~prescribed by the state department of public health at 641—Chapter 43. Retesting shall be accomplished at least every two years from the date of the initial measurement outlined in a nationally recognized radon measurement protocol.~~ If testing determines confirmed radon gas levels in excess of 4.0 picocurie per liter, ~~a plan using radon mitigation procedures established by the state department of public health shall be developed with and approved by the state department of public health prior to a full license being issued.~~

(1) If radon mitigation is in place, retesting shall occur at least every two years from initial measurements to confirm radon gas levels are below 4.0 picocurie per liter.

(2) If initial testing confirmed radon gas levels are below 4.0 picocurie per liter, retesting shall occur at least every five years from initial measurements.

c. No change.

d. Centers that operate before and after school programs and summer-only programs that serve only school-age children and that operate in a public school building are exempted from testing for lead, ~~radon~~, and carbon monoxide.

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. Centers that operate before and after school programs and summer-only programs that serve only school-age children and that operate in a public school building are required to follow radon testing requirements outlined in Iowa Code section 280.32 as enacted by 2022 Iowa Acts, House File 2412, section 1.

ITEM 12. Amend paragraphs **110.9(4)“d”** and **“e”** as follows:

d. An admission physical examination report signed by a licensed ~~physician or a designee in a clinic supervised by a licensed physician~~ medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner.

(1) to (4) No change.

e. For children under the age of six, a statement of health condition signed by a ~~physician or designee~~ licensed medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner and submitted annually from the date of the admission physical examination. For a child who is enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the ~~physician~~ statement of health.

ITEM 13. Amend paragraph **110.15(1)“c”** as follows:

c. In addition to the 14 children not in school, no more than 4 2 children who attend school may be present.

ITEM 14. Amend paragraphs **120.9(2)“d”** and **“e”** as follows:

d. An admission physical examination report signed by a licensed ~~physician or the designee in a clinic supervised by a licensed physician~~ medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner.

e. For children under the age of six, a statement of health condition signed by a ~~physician or designee~~ licensed medical doctor, doctor of osteopathy, chiropractor, physician's assistant or advanced registered nurse practitioner submitted annually from the date of the admission physical examination. For a child who is enrolled in school, a statement of health status signed by the parent or legal guardian may be substituted for the ~~physician~~ statement of health.

ARC 6473C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to five-year rules review and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 119, “Record Check Evaluations for Certain Employers and Educational Training Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 135B.34 and 135C.14.

Purpose and Summary

Chapter 119 was reviewed as part of the Department's five-year rules review. This proposed rule making provides the form number of the document that must be submitted by a requesting entity when submitting a request for a record check evaluation. The proposed amendment identifies the ways the form and documentation may be submitted to include mail, electronic mail or facsimile.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 action is proposed:

Amend subrule 119.3(1) as follows:

119.3(1) Required documentation. The requesting entity and the prospective employee or student shall complete and submit ~~the record check evaluation form~~ Form 470-2310 to the department to request an evaluation. The requesting entity shall submit the form and required documentation to the Department of Human Services, Central Abuse Registry, ~~P.O. Box 4826, Des Moines, Iowa 50305-4826~~ by regular mail, electronic mail or facsimile. The department shall not process evaluations that are not signed by the prospective employee or student. The position sought or held must be clearly written on the first page of the record check evaluation form. The form shall be accompanied by the following documents:

a. to d. No change.

TELECOMMUNICATIONS AND TECHNOLOGY

COMMISSION, IOWA

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2022, AND ENDING AUGUST 31, 2023

In accordance with Iowa Code section 8D.11, subsection 1, paragraph “c,” the Iowa Telecommunications and Technology Commission’s (Iowa Communications Network) Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2022, and ending on August 31, 2023, of \$2,847,889.10.

The adjusted contract limitation amount becomes effective on September 1, 2022. The amount was determined by applying the formula specified in the statute. According to the Federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 9.1 percent from July 2021 to June 2022.

Pursuant to Iowa Code section 8D.11, subsection 1, paragraph “c,” this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice should be directed to:

ICN Executive Director
Iowa Telecommunications and Technology Commission
400 E. 14th Street
Des Moines, Iowa 50319
Telephone: 515.725.4692

DEPARTMENT OF TRANSPORTATION

Advisory Notice

Adjusted Competitive Bid and Quotation Thresholds for Public Improvement for Vertical Infrastructure

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted competitive bid and quotation thresholds for public improvement for vertical infrastructure. The adjusted competitive bid and quotation threshold values will become effective January 1, 2023.

The vertical infrastructure bid threshold subcommittee, composed of three contractors, three representatives of public entities and the Director’s designee, held a meeting on June 10, 2022, to review competitive bid and quotation thresholds. After review of the construction price index, building cost index and material cost index from the preceding adjustment, the vertical infrastructure bid threshold subcommittee made the following adjustments to the competitive bid and quotation thresholds listed in Iowa Code sections 26.3 and 26.14:

1. The competitive bid threshold will be adjusted to \$196,000 effective January 1, 2023.
2. The competitive quotation threshold for counties, including county hospitals, will be adjusted to \$145,000 effective January 1, 2023.
3. The competitive quotation threshold for cities having a population of 50,000 or more will be adjusted to \$109,000 effective January 1, 2023.
4. The competitive quotation threshold for school districts having a population of 50,000 or more will be adjusted to \$109,000 effective January 1, 2023.
5. The competitive quotation threshold for aviation authorities created within cities having a population of 50,000 or more will be adjusted to \$109,000 effective January 1, 2023.

TRANSPORTATION DEPARTMENT(cont'd)

6. The competitive quotation threshold for cities having a population of less than 50,000, for school districts having a population of less than 50,000, and for other governmental entities will be adjusted to \$81,000 effective January 1, 2023.

ARC 6477C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to airport registration and special certificates for aircraft and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 720, "Iowa Airport Registration," and Chapter 750, "Aircraft Registration," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 328.12 and section 328.19 as amended by 2022 Iowa Acts, House File 2124.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 328.19 as amended by 2022 Iowa Acts, House File 2124, and section 328.28 as amended by 2022 Iowa Acts, Senate File 2370, section 1.

Purpose and Summary

This proposed rule making conforms Chapters 720 and 750 with 2022 Iowa Acts, House File 2124 and Senate File 2370.

House File 2124 removes outdated Iowa Code language related to establishing airport traffic patterns, as well as language requiring burdensome, redundant and unnecessary site approval requirements for new airports. The Federal Aviation Administration has become the authority on airspace that identifies standard airport traffic patterns for aircraft operations used when taking off and landing at airports.

The proposed amendments to Chapter 720 also correct the scope of the chapter, revise the wording to use "certificate of registration" and add contact information.

Senate File 2370 limits the period a manufacturer or dealer may operate an aircraft under a special certificate to three years. Currently, rule 761—750.30(328) limits the time to 24 months.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

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 Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests

TRANSPORTATION DEPARTMENT[761](cont'd)

to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on September 15, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on September 13, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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 Tracy George and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

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 761—720.1(328) as follows:

761—720.1(328) Scope. This chapter establishes ~~site approval~~, registration and registration renewal requirements and minimum safety standards for airports open for use by the public. It also establishes ~~site approval~~ airport closing requirements ~~for airports maintained for private use~~.

ITEM 2. Amend rule 761—720.3(328) as follows:

761—720.3(328) Airport site approval required Contact information. ~~A person or governmental subdivision planning to construct or establish an airport shall obtain a certificate of airport site approval from the department before the site is acquired or before the airport is constructed or established~~ Questions regarding this chapter may be directed to the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1468; or through the department's website at www.iowadot.gov.

ITEM 3. Amend rule 761—720.4(328) as follows:

761—720.4(328) Public-use airport. ~~The site approval requirements of this rule apply to proposed public-use airports. The remaining~~ Airport registration requirements apply to existing public-use airports.

~~**720.4(1) Application for site approval.** The sponsor shall complete Iowa Department of Transportation Form 300025, "Airport Site Approval and New Registration Application," and submit it to the modal transportation bureau. This form is available from the Modal Transportation Bureau,~~

TRANSPORTATION DEPARTMENT[761](cont'd)

Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1468; or through the department's website at www.iowadot.gov.

~~720.4(2) Site requirements.~~ Before issuing a certificate of airport site approval, the department shall:

~~a.~~ Review the application and, if necessary, inspect the site. The sponsor shall ensure access to the site for the inspection at a reasonable time convenient for department personnel.

~~b.~~ Require a current airspace determination issued by the FAA which concludes that the proposed site will not adversely affect the safe and efficient use of airspace.

~~720.4(3) Certificate of site approval.~~

~~a.~~ After the application, inspection and FAA approval requirements have been met, the department shall issue a certificate of site approval for the airport if it complies with the minimum airport safety standards established by the department.

~~b.~~ The certificate of site approval shall locate the proposed airport by geographical coordinates; section, township and range; and distance and direction from an established nearby community.

~~c.~~ The certificate of site approval shall be valid for two years from the date of issuance.

~~d.~~ Aircraft operations shall not be permitted at the proposed site prior to airport registration.

~~720.4(4) 720.4(1) Registration.~~ When construction of a new airport is ~~complete~~ completed, the sponsor shall notify the department. The department shall inspect the airport and, if the airport is in compliance with the minimum safety standards designated by the department, shall issue the airport a public-use airport certificate of registration ~~certificate~~.

~~720.4(5) 720.4(2) Registration renewal.~~ Each public-use airport shall apply annually for a registration renewal on a form provided by the department. The department shall issue a registration public-use airport certificate of registration to a public-use airport if the airport is in compliance with the minimum safety standards designated by the department.

~~720.4(6) 720.4(3) Airport inspection.~~ Each registered public-use airport is subject to inspection by the department at any reasonable time. If the inspection by the department reveals an unsafe condition or a failure to meet the minimum safety standards, the department shall record that fact and shall notify the airport sponsor in writing with necessary corrective actions. Failure to implement corrective actions may result in airport registration revocation or denial. An FAA inspection of an airport certified under 14 CFR Part 139 may be accepted in lieu of an inspection by the department.

~~720.4(7) 720.4(4) Posting.~~ The airport certificate of registration ~~certificate~~ shall be posted in a prominent place available to the public at the airport. If there are no buildings at the airport, the registration certificate shall be displayed at the office of the airport manager or caretaker.

~~720.4(8) Revocation.~~ Rescinded IAB 7/4/07, effective 8/8/07.

ITEM 4. Rescind and reserve rule **761—720.5(328)**.

ITEM 5. Amend **761—Chapter 720**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 328.1, 328.12, 328.19 as amended by 2022 Iowa Acts, House File 2124, and 328.35 and 2016 Iowa Acts, chapter 1131, section 3.

ITEM 6. Amend rule 761—750.30(328) as follows:

761—750.30(328) Application for special certificate. When applying to the department for a special certificate, the applicant must submit reasonable proof of bona fide status as a manufacturer, transporter or dealer. ~~Dealer~~ Manufacturer or dealer applicants must verify that no aircraft have been held in a dealer special certificate inventory for a period of more than ~~24 calendar months~~ three years.

This rule is intended to implement Iowa Code section 328.28 as amended by 2022 Iowa Acts, Senate File 2370, section 1, and section 328.29.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for August is 5.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective August 9, 2022, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .25%
180-364 days	Minimum .20%
One year to 397 days	Minimum .40%
More than 397 days	Minimum .40%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

USURY(cont'd)

September 1, 2021 — September 30, 2021	3.25%
October 1, 2021 — October 31, 2021	3.25%
November 1, 2021 — November 30, 2021	3.25%
December 1, 2021 — December 31, 2021	3.50%
January 1, 2022 — January 31, 2022	3.50%
February 1, 2022 — February 28, 2022	3.50%
March 1, 2022 — March 31, 2022	3.75%
April 1, 2022 — April 30, 2022	4.00%
May 1, 2022 — May 31, 2022	4.25%
June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%
September 1, 2022 — September 30, 2022	5.00%

ARC 6483C

EDUCATION DEPARTMENT[281]

Adopted and Filed Emergency

Rule making related to open enrollment

The State Board of Education hereby amends Chapter 6, “Appeal Procedures,” Chapter 17, “Open Enrollment,” and Chapter 36, “Extracurricular Interscholastic Competition,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5) and 2022 Iowa Acts, House File 2589.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 282.18 and 290.1 as amended by 2022 Iowa Acts, House File 2589.

Purpose and Summary

2022 Iowa Acts, House File 2589, division VI, eliminates open enrollment deadlines, eliminates remaining open enrollment appeal rights to the State Board, and makes conforming changes, including changes to athletic eligibility. The division is effective upon enactment. This rule making reflects the changes made by House File 2589.

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the State Board finds that notice and public participation are unnecessary or impractical because 2022 Iowa Acts, House File 2589, division VI, was effective upon enactment, authorizes emergency rule making, and eliminates the statutory authority for the portion of the existing rules that are amended herein.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a) and (b), the State Board also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on August 4, 2022, because 2022 Iowa Acts, House File 2589, section 40, so provides and because this rule making removes a restriction on open enrollment applications.

Adoption of Rule Making

This rule making was adopted by the State Board on August 4, 2022.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 6482C** to allow for public comment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. According to the Notes on Bills and Amendments for 2022 Iowa Acts, House File 2589, “Open enrollment applications and transportation reimbursements are expected to increase; however, the extent to which each district may experience a fiscal impact cannot be estimated at this time.”

EDUCATION DEPARTMENT[281](cont'd)

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 became effective on August 5, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend **281—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 256.7(6), 275.16, ~~282.18, 282.18(5), 282.32, 285.12,~~ and Iowa Code chapter 290 and chapter 17A.

ITEM 2. Amend subrule 17.3(1) as follows:

17.3(1) Parent/guardian responsibilities. ~~On or before March 1 of the school year preceding the school year for which open enrollment is requested,~~ a A parent/guardian shall formally notify both the district of residence and the receiving district of the request for open enrollment. The request for open enrollment shall be made on forms provided by the department of education. ~~Failure by the parent to send the form to the resident district and receiving district by the deadline may cause the application to be considered untimely.~~ The parent/guardian is required to indicate on the form if the request is for a pupil requiring special education, as provided by Iowa Code chapter 256B. The forms for open enrollment application are available from each public school district and area education agency and from the state department of education.

ITEM 3. Amend subrule 17.3(2) as follows:

17.3(2) School district responsibilities.

a. The board of the resident district shall take no action on an open enrollment request except for a request made under rule ~~281—17.5(282) or 281—17.14(282).~~

b. The board of the receiving district shall act on an open enrollment request ~~no later than June 1 of the school year preceding the school year for which the request is made.~~

(1) The receiving district superintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within five days of board action.

(2) As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, applications ~~filed on or before March 1.~~ The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline, but the board of the receiving district shall take action to approve the request if good cause exists. The board shall have the discretion to determine the scope of the authorization. The authorization may be for regular applications filed on or before March 1, good cause applications, and kindergarten applications filed on or before September 1, or any combination that the board determines. The same timelines for approval, forwarding, and notification shall apply.

EDUCATION DEPARTMENT[281](cont'd)

c. The parent/guardian may withdraw an open enrollment request any time prior to the first day of school in the resident district board's action on the application. ~~After the first day of school, an open enrollment request can only be changed during the term of the approval by the procedures of subrules 17.8(4), 17.8(5), 17.8(6), and 17.8(7).~~

d. The board of the receiving district shall comply with the provisions of rule 281—17.11(282) if the application for open enrollment is for a pupil requiring special education as provided by Iowa Code chapter 256B.

e. Notification to parents.

(1) By September 30 of each school year, all districts shall notify parents of the following:

1. ~~Open enrollment deadlines;~~

2. 1. Transportation assistance; and

3. ~~That within 30 days of a denial of an open enrollment request by a district board of education, the parent/guardian may file an appeal with the state board of education only if the open enrollment request was based on repeated acts of harassment or a serious health condition of the pupil that the district cannot adequately address; and that all other denials must be appealed to the district court in the county in which the primary business office of the district is located; and~~

4. 2. Possible loss of athletic eligibility for open enrollment pupils.

(2) This notification may be published in a school newsletter, a newspaper of general circulation, a website, or a parent handbook provided to all patrons of the district. This information shall also be provided to any parent/guardian of a pupil who enrolls in the district during the school year.

ITEM 4. Amend subrule 17.3(3) as follows:

17.3(3) Exception to process when resident district is under court-ordered desegregation. If the resident district has a court-ordered desegregation plan, the ~~request for open enrollment shall be filed solely with the district of residence on or before March 1 of the school year preceding the school year for which open enrollment is requested.~~ The superintendent of the resident district may deny a request under this subrule unless the request is made on behalf of a student whose sibling already actively participates in open enrollment to the same receiving district to which open enrollment is sought for this student. A denial by the superintendent may be appealed to the board of the district in which the request was denied. A decision of the local board to uphold the denial may only be appealed to the district court in the county in which is located the primary business office of the district that upheld the denial of the open enrollment request.

ITEM 5. Rescind and reserve rule **281—17.4(282).**

ITEM 6. Rescind and reserve rule **281—17.5(282).**

ITEM 7. Amend rule 281—17.7(282) as follows:

281—17.7(282) Open enrollment for kindergarten or certain prekindergarten programs. ~~While the regular time frame in requesting open enrollment is that an application should be made no later than March 1 of the school year preceding the school year for which the enrollment is requested, a~~ A parent/guardian ~~requesting to enroll~~ requesting to enroll of a kindergarten pupil in a district other than the district of residence or a parent/guardian of a prekindergarten student enrolled in a special education program and included in the resident school district's basic enrollment under Iowa Code section 257.6(1) "a"(1) ~~may make such application on or before September 1 of that school year~~ request to enroll the pupil or student in a district other than the district of residence. In considering an application ~~for a kindergarten pupil under this rule,~~ the resident and the receiving district are not precluded from administering board-adopted policies related to insufficient classroom space, the requirements of rule 281—17.11(282), or the requirements of a desegregation order.

As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, applications filed ~~on or before September 1~~ under this rule. ~~The timelines established in rule 281—17.4(282) shall apply to applications for a pupil under this rule.~~

EDUCATION DEPARTMENT[281](cont'd)

ITEM 8. Amend paragraph **17.8(2)“k”** as follows:

k. Participates in open enrollment because of circumstances that meet the definition of “good cause,” ~~under rule 281—17.4(282).~~ For purposes of this paragraph, “good cause” means a change in a child’s residence due to a change in family residence, a change in a child’s residence from the residence of one parent or guardian to the residence of a different parent or guardian, a change in the state in which the family residence is located, a change in a child’s parents’ marital status, a guardianship or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, initial placement of a prekindergarten student in a special education program requiring specially designed instruction, or participation in a substance abuse or mental health treatment program, a change in the status of a child’s resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in Iowa Code section 256E.10 or 256F.8, the failure of negotiations for a whole grade sharing, reorganization, dissolution agreement, or the rejection of a current whole grade sharing agreement, or reorganization plan.

ITEM 9. Amend subrule 17.8(4) as follows:

17.8(4) *Petition for attendance in an alternative receiving district.* Once the pupil of a parent/guardian has been accepted for open enrollment, attendance in an alternative receiving district under open enrollment can be initiated by filing a petition for change with the receiving district. ~~The petition shall be filed by the parent/guardian with the receiving district on or before March 1 of the year preceding the school year for which the change is requested.~~ The timelines and notification requirements for such a request shall be the same as outlined in subrule 17.3(2). If the request is approved, the alternative district shall send notice of this action to the parent/guardian, to the original receiving district, and to the resident district of the pupil. Petitions for change shall be effectuated at the start of the next school year.

~~As an alternative procedure, the receiving and alternative receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a written request for such change which is approved by the two boards. The parent/guardian and the resident district board shall be notified of the approval and the date for change in open enrollment within 15 days of the mutual agreement action of the receiving and alternative receiving boards.~~

A pupil in good standing may return to the district of residence at any time following written notice from the parent/guardian to both the resident district and the receiving district.

ITEM 10. Amend subrule 17.8(6) as follows:

17.8(6) *Change in residence when participating in open enrollment.* If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent/guardian shall have the option to leave the pupil in the receiving district under open enrollment, to open enroll to another school district, or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment or to open enroll to another school district, the district of residence, as determined on the date specified in Iowa Code section 257.6(1), shall be responsible for payment of the cost per pupil plus any applicable weightings or special education costs for the balance of the school year. The new district of residence shall be responsible for these payments during succeeding years of the agreement.

If the pupil is to remain under open enrollment or to open enroll to another school district, the parent/guardian shall write a letter, delivered by mail or by hand ~~on or before the date specified in Iowa Code section 257.6(1),~~ to notify the original resident district, the new resident district, and the receiving district of this decision.

Timely requests under this rule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2).

ITEM 11. Amend subrule 17.8(7), introductory paragraph, as follows:

17.8(7) *Change in residence when not participating in open enrollment.* If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open

EDUCATION DEPARTMENT[281](cont'd)

enrollment pupil with no interruption in the education program or to open enroll to another school district. This option is not available to the parent/guardian of a student who is entering kindergarten for the first time. The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. ~~This request shall be made on or before the date specified in Iowa Code section 257.6(1).~~ Timely requests Requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2). If the move is on or after the date specified in Iowa Code section 257.6(1), the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

ITEM 12. Rescind and reserve subrule **17.8(9)**.

ITEM 13. Amend subrule 17.10(1) as follows:

17.10(1) Full-time pupils. ~~Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b," for full-time pupils, the~~ The resident district shall pay each year to the receiving district an amount equal to the sum of the state cost per pupil for the previous year; plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4; plus either the teacher leadership supplement state cost per pupil for the previous year as provided in Iowa Code section 257.9(11) or the teacher leadership supplement foundation aid allocation for fiscal year 2017 as provided in Iowa Code section 284.13(1) "e," whichever the district received, if both the district of residence and the receiving district received either of the supplements. If the pupil participating in open enrollment is also an eligible pupil under Iowa Code section 261E.6 (postsecondary enrollment options program), the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

ITEM 14. Amend subrule 17.10(2) as follows:

17.10(2) Dual enrolled pupils. ~~Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b," for~~ For pupils who receive competent private instruction and are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to .1 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4. However, a pupil dual enrolled in grades nine through twelve shall be counted by the receiving district in the same manner as a shared-time pupil under Iowa Code section 257.6(1) "c."

ITEM 15. Amend subrule 17.10(3) as follows:

17.10(3) Home school assistance program pupils. ~~Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b," for~~ For pupils who receive competent private instruction and are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal to .3 times the state cost per pupil under Iowa Code chapter 257 for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

ITEM 16. Amend subrule 17.10(6) as follows:

17.10(6) Partial-year situations. If a pupil participating in open enrollment attends school in the receiving district for less than a full school year, payment from the district of residence to the receiving district shall be prorated on a per diem basis. In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at midyear, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of cost per pupil will be prorated.

ITEM 17. Amend subrule 17.10(7) as follows:

17.10(7) Late changes of open enrollment. ~~The resident district and the receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a petition for such change which is approved by the two boards. A change due~~

EDUCATION DEPARTMENT[281](cont'd)

~~to good cause is a late change in enrollment.~~ If any change in enrollment is made on or after the date specified in Iowa Code section 257.6, subsection 1, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

ITEM 18. Amend paragraph **36.15(4)“k”** as follows:

k. The student participates in open enrollment because of circumstances that meet the definition of “good cause” under ~~Iowa Code section 282.18(4)“b”~~ 281—paragraph 17.8(2)“*k*”; or

[Filed Emergency 8/4/22, effective 8/5/22]

[Published 8/24/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/24/22.

ARC 6486C

EDUCATION DEPARTMENT[281]

Adopted and Filed Emergency

Rule making related to charter school funding

The State Board of Education hereby amends Chapter 19, “Charter Schools,” 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, 2022 Iowa Acts, House File 2575.

Purpose and Summary

This rule making revises charter school funding in accordance with the requirements of 2022 Iowa Acts, House File 2575.

Reason for Adoption of Rule Making Without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the State Board finds that notice and public participation are unnecessary or impractical because 2022 Iowa Acts, House File 2575, division IX, is effective upon enactment and authorizes emergency rule making.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the State Board also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on August 8, 2022, because 2022 Iowa Acts, House File 2575, division IX, so provides.

Adoption of Rule Making

This rule making was adopted by the State Board on August 4, 2022.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 6485C** to allow for public comment.

Fiscal Impact

This rule making has the following fiscal impact to the State of Iowa, according to the Notes on Bills and Amendments: “An estimated 275 students will attend a charter school who were not included in the actual enrollment of the district of residence for FY 2023. The Department of Education will pay to the charter schools an estimated \$2,600,000 from the General Fund standing unlimited appropriation for charter school funding during FY 2023.”

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 became effective on August 8, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **19.11(4)“c”** as follows:

c. An individual who holds an authorization to be a charter school administrator issued by the board of educational examiners under Iowa Code chapter 272. ~~The board of educational examiners shall adopt rules for the issuance of such authorizations not later than December 31, 2021, and such authorizations shall only be valid for service or employment as a charter school administrator.~~

ITEM 2. Amend subrules 19.12(2) to 19.12(4) as follows:

19.12(2) ~~The school district of residence shall pay to the charter school in which the student is enrolled in the manner required under Iowa Code section 282.18, and pursuant to the timeline in Iowa Code section 282.20(3),~~ shall receive under subrule 19.12(4) an amount equal to the sum of the state cost per pupil for the previous school year, plus the teacher leadership supplement state cost per pupil for the previous fiscal year as provided in Iowa Code section 257.9, plus any moneys received by the school district of residence for the student as a result of the non-English speaking weighting under Iowa Code section 280.4(3) for the previous school year, multiplied by the state cost per pupil for the previous year. If a student is an eligible pupil under Iowa Code section 261E.6, the charter school shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

19.12(3) For a student requiring special education, the school district of residence shall pay to the charter school, pursuant to the timeline in Iowa Code section 282.20(3), the actual costs incurred in providing the appropriate special education.

19.12(4) ~~For each student enrolled in the charter school who was not included in the actual enrollment of the district of residence under Iowa Code section 257.6(1) in the previous school year, the~~ The amount otherwise required to be paid to the charter school under subrule 19.12(2) or 19.12(3) shall instead be paid by the department to the charter school for the student's initial year of enrollment during the school year for which the student is enrolled in the charter school. The amount paid to the charter

EDUCATION DEPARTMENT[281](cont'd)

school under this subrule shall result in an equal reduction to the school district of residence's state aid payment amount under Iowa Code chapter 257 for the school budget year following the school year for which the payment to the charter school is made, so long as the student was counted in the district of residence's actual enrollment in the school year for which the student attended the charter school.

ITEM 3. Amend subrule 19.12(7) as follows:

19.12(7) ~~If necessary, and pursuant to rules adopted by the state board,~~ paragraph 19.12(7) "a," funding amounts required under this rule for the first school year of a new charter school shall be based on enrollment estimates for the charter school included in the charter school contract. ~~Initial amounts~~ The process set out in paragraph 19.12(7) "b" shall be used for determining estimated enrollments for charter school funding purposes in school years after the first year of a charter school. Amounts paid using estimated enrollments shall be reconciled during the subsequent payment payments based on actual enrollment of the charter school during the first each school year, pursuant to paragraph 19.12(7) "c."

a. Enrollment estimates for the first school year shall be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

b. Enrollment estimates for school years following the first school year shall be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

c. Estimated payments shall be reconciled, at minimum, based on actual enrollment information reported by the charter school pursuant to Iowa Code sections 256.9(44) and 257.6.

[Filed Emergency 8/4/22, effective 8/8/22]

[Published 8/24/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/24/22.

ARC 6467C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to workforce housing tax incentives program

The Economic Development Authority (IEDA) hereby amends Chapter 48, “Workforce Housing Tax Incentives Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15.336.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2325.

Purpose and Summary

2022 Iowa Acts, Senate File 2325, amends Iowa Code sections 15.352, 15.353, and 15.354 relating to the Workforce Housing Tax Incentives Program. The amendments make the following changes to the program: (1) amend the definition of “small city” and add a corresponding definition of “urban area,” (2) allow the IEDA Board to set maximum average dwelling unit costs for different project types based on the United States Bureau of the Census building permit survey and historical program data, (3) allow IEDA to approve a second extension of a project’s completion deadline of up to 12 months, and (4) allow projects that exceed the maximum average dwelling unit costs by up to 150 percent to receive a reduced tax incentive award (raised from 110 percent).

Except for the section relating to extensions, which was effective as of March 23, 2022, the sections of the legislation relating to the Program apply retroactively to July 1, 2021, regarding all eligible housing businesses that have not been notified of the amount the business may claim as a refund of the sales and use tax or have not been issued a tax credit certificate.

This rule making reflects the changes made to the Iowa Code.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as **ARC 6359C**.

Ashley Aust with Hubbell Realty Company and Whitney Baethke with the city of Des Moines submitted comments suggesting that the amended rules clarify that new construction at a brownfield site or grayfield site is an eligible project type.

As suggested in the comments received, changes have been made to subparagraph 48.4(1)“b”(1) and paragraph 48.9(2)“a” to clarify that construction of new buildings at a brownfield or grayfield site is an eligible project type. An additional change from the Notice has been made in paragraph 48.4(1)“c” to add factors for the Authority to consider in determining whether a unit should be classified as a single-family dwelling unit for the purposes of establishing an eligible project.

Adoption of Rule Making

This rule making was adopted by the Authority Board on July 22, 2022.

Fiscal Impact

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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 IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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 September 28, 2022.

The following rule-making actions are adopted:

ITEM 1. Rescind rule **261—48.1(15)**.

ITEM 2. Renumber rules **261—48.2(15)** and **261—48.3(15)** as **261—48.1(15)** and **261—48.2(15)**.

ITEM 3. Amend renumbered rule 261—48.1(15) as follows:

261—48.1(15) Purpose Authority and purpose. The workforce housing tax incentives program is administered pursuant to Iowa Code sections 15.351 through 15.356 and 2022 Iowa Acts, Senate File 2325, sections 7 through 13. The purpose of the program is to assist the development of workforce housing in Iowa communities by providing incentives for housing projects that are targeted at middle-income households and that focus on the redevelopment or repurposing of existing structures.

ITEM 4. Amend renumbered rule 261—48.2(15) as follows:

261—48.2(15) Definitions. As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Average dwelling unit cost*” means the costs directly related to the housing project divided by the total number of dwelling units in the housing project.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Brownfield site*” means an abandoned, idled, or underutilized property where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the site on which the property is located. A brownfield site does not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. In order to administer similar programs in a similar manner, the authority will attempt to apply this definition in substantially the same way as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294 and may consult members of the council or other staff as necessary.

“*Community*” means a city or county.

“*Costs directly related*” means expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures.

“Costs directly related” includes expenditures for site preparation work, surveying, construction

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

materials, construction labor, architectural services, and engineering services. “Costs directly related” does not include expenditures for property acquisition, building permits, building inspection fees, furnishings, appliances, accounting services, legal services, loan origination and other financing costs including interest on construction loans, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

“*Disaster recovery housing project*” means a qualified housing project located in a county that has been declared a major disaster by the President of the United States on or after March 12, 2019, and that is also a county in which individuals are eligible for federal individual assistance.

“*Grayfield site*” means a property meeting all of the following requirements:

(1) The property has been developed and has infrastructure in place but the property’s current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

(2) The property’s improvements and infrastructure are at least 25 years old and one or more of the following conditions exists:

1. Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of 12 months or more.

2. The assessed value of the improvements on the property has decreased by 25 percent or more.

3. The property is currently being used as a parking lot.

4. The improvements on the property no longer exist.

In administering the program, the authority will attempt to apply this definition in substantially the same manner as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294.

“*Greenfield site*” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“*Housing business*” means a business that is a housing developer, housing contractor, or nonprofit organization that completes a housing project in the state.

“*Housing project*” means a project located in this state meeting the requirements of rule 261—48.4(15).

“*Laborshed area*” means the same as defined in 261—Chapter 173.

“*Laborshed wage*” means the same as defined in 261—Chapter 173.

“*Multi-use building*” means a building whose street-level ground story is used for a purpose that is other than residential, and whose upper story or stories are currently used primarily for a residential purpose, or will be used primarily for a residential purpose after completion of the housing project associated with the building.

“*New dwelling units*” means dwelling units that are made available for occupancy in a community as a result of a housing project and that were not available for occupancy as residential housing in the community for a period of at least six months prior to the date on which application is made to the authority under the program. If a dwelling unit has served as residential housing and been occupied during the six months preceding the date on which application is made to the authority under the program, then the dwelling unit shall be presumed not to be a new dwelling unit.

“*Program*” means the workforce housing tax incentives program administered under this chapter.

“*Project completion*” means the same as defined in Iowa Code section 15.355(2).

“*Qualifying new investment*” means costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, “costs directly related to acquisition” includes the costs associated with the purchase of real property or other structures.

~~(1) “Qualifying new investment” includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community.~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~(2)~~ (1) The amount of costs that may be used to compute “qualifying new investment” shall not exceed the costs used for the first \$150,000 of value for each dwelling unit that is part of a housing project.

~~(3)~~ (2) “Qualifying new investment” does not include the following:

1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.

2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.

3. Any costs, including acquisition costs, incurred before the housing project is approved by the authority.

“Refund notice” means a notice provided by the authority of the amount that an eligible housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2).

“Rehabilitation, repair, or redevelopment” means construction or development activities associated with a housing project that are undertaken for the purpose of reusing or repurposing existing buildings or structures as new dwelling units. Rehabilitation, repair, or redevelopment does not include new construction of dwelling units at a greenfield site. Rehabilitation, repair, or redevelopment includes new structures at a qualified grayfield site.

“Small city” means ~~any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by the most recent population estimates issued by the United States Bureau of Census~~ a city that meets the applicable criteria in rule 261—48.3(15).

“Tax credit certificate” means a certificate issued by the authority stating the amount of workforce housing investment tax credits under Iowa Code section 15.355(3) that an eligible housing business may claim.

“Urban area” means any city or township, except for a small city, that is wholly located within one or more of the 11 most populous counties in the state, as determined by either the most recent population estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

ITEM 5. Adopt the following new rule 261—48.3(15):

261—48.3(15) Small cities. For the purposes of this chapter, the following subrules will determine which cities and townships will be considered small cities.

48.3(1) For projects that received a refund notice or tax credit certificate on or before June 30, 2021, a small city is any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by the most recent population estimates issued by the United States Bureau of the Census.

48.3(2) For projects that received a refund notice or tax credit certificate on or after July 1, 2021, a small city is any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by either the most recent population estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

48.3(3) On or after July 1, 2021, any city or township located wholly within one or more of the 11 most populous counties in the state, as determined pursuant to subrule 48.3(2), may be considered a small city if the city meets all of the following requirements:

a. The city or township has a population less than or equal to 2,500 as determined by either the most recent population estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

b. The city or township had population growth of less than 30 percent as calculated by comparing the population in the most recent decennial census released by the United States Bureau of the Census to the population in the decennial census released ten years prior.

ITEM 6. Amend subrule 48.4(1) as follows:

48.4(1) ~~Minimum requirements~~ Eligible project types. To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the following requirements:

a. The project includes at least one of the following:

(1) Four or more single-family dwelling units, except for a project located in a small city, then two or more single-family dwelling units.

(2) One or more multiple dwelling unit buildings each containing three or more individual dwelling units.

(3) Two or more dwelling units located in the upper story of an existing multi-use building.

b. The project consists of any of the following:

(1) Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units. Redevelopment at a brownfield site or grayfield site includes construction of new buildings.

(2) The rehabilitation, repair, or redevelopment of dilapidated dwelling units.

(3) The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.

~~(4) The new construction, rehabilitation, repair, or redevelopment of dwelling units in a distressed workforce housing community. The authority will determine whether a community is considered a distressed workforce housing community pursuant to subrule 48.4(2).~~

~~(5) (4) For a project located in a small city that meets the minimum housing project requirements under this subrule, development~~ Development ~~at a greenfield site, if the project meets the requirements of paragraph 48.4(1) "a" and is located in a small city. A project located in a small city is not required to complete the distressed workforce housing community application pursuant to subrule 48.4(2).~~

~~c. (1) Except as provided in subparagraphs (2) and (3) below, the average dwelling unit cost does not exceed \$200,000 per dwelling unit. For purposes of this rule, the average dwelling unit cost equals the costs directly related to the housing project divided by the total number of dwelling units in the housing project. Whether a dwelling unit should be classified as a single-family dwelling unit for the purposes of this subrule shall be as determined by the authority. Factors the authority may consider include, but are not limited to, the following:~~

~~(1) Whether a unit is separated from other units by a ground-to-roof wall;~~

~~(2) Whether the unit has a separate heating system;~~

~~(3) Whether the unit has an individual meter for public utilities; and~~

~~(4) Whether the unit has other units above or below.~~

~~(2) The average dwelling unit cost does not exceed \$250,000 per dwelling unit if the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(8) "a."~~

~~(3) The average dwelling unit cost does not exceed \$215,000 per dwelling unit if the project is located in a small city.~~

d. The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development's housing quality standards and all applicable local safety standards.

e. The project is not located in a 100-year floodplain.

ITEM 7. Rescind subrule 48.4(2) and adopt the following **new** subrule in lieu thereof:

48.4(2) Maximum cost. Except as provided in subrules 48.4(3) and 48.4(4) below, the average dwelling unit cost does not exceed the maximum amount established by the board for each fiscal year for the applicable project type and project location. The board shall establish the maximum average dwelling unit cost for the project types set forth in paragraphs 48.4(2) "a" through "d." In establishing

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

each maximum average dwelling unit cost, the board shall primarily consider the most recent annual United States Bureau of the Census building permits survey and historical program data.

- a. Single-family dwelling units located in a small city.
- b. Single-family dwelling units located in an urban area.
- c. Multiple dwelling unit buildings located in a small city.
- d. Multiple dwelling unit buildings located in an urban area.

ITEM 8. Rescind subrule 48.4(3) and adopt the following new subrule in lieu thereof:

48.4(3) *Maximum cost for historic projects.* If the project is a qualified rehabilitation project, as that term is defined in Iowa Code section 404A.1(8) “a,” the average dwelling unit cost shall not exceed 125 percent of the maximum average dwelling unit cost established by the board for the applicable project type and project location as provided in subrule 48.4(2).

ITEM 9. Adopt the following new subrule 48.4(4):

48.4(4) *Maximum cost on or before June 30, 2021.* For projects that received a refund notice or tax credit certificate on or before June 30, 2021, the average dwelling unit cost shall not exceed \$200,000 per dwelling unit. If the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(8) “a,” the average dwelling unit cost does not exceed \$250,000 per dwelling unit.

ITEM 10. Amend subrule 48.5(3) as follows:

48.5(3) *Agreement and fees.*

a. Upon receiving a tax incentive award for a housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the program. The agreement shall identify the tax incentive amount, the tax incentive award date, the project completion deadline and the total costs of the housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that provision.

c. Housing project completion deadline.

(1) Except as provided in subparagraph 48.5(3) “c”(2), a housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

(2) The authority may for good cause within the discretion of the authority extend a housing project’s completion deadline ~~one~~ by up to 12 months upon application by the housing business, which application shall be made prior to the expiration of the three-year completion deadline in subparagraph 48.5(3) “c”(1) in the manner and form prescribed by the authority. The authority may approve a second extension of up to 12 months if prior to the expiration of the first 12-month extension the housing business applies and substantiates to the satisfaction of the authority that the second extension is warranted due to extenuating circumstances outside the control of the housing business. An application by a housing business shall be made in the manner and form prescribed by the authority.

d. Upon completion of a housing project, a housing business shall submit all of the following to the authority:

(1) An examination of the project in accordance with the American Institute of Certified Public Accountants’ statements on standards for attestation engagements, completed by a certified public accountant (CPA) authorized to practice in this state. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA’s professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.5(3) “a”; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

e. Upon review of the examination, verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.5(3) “d”(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use taxes under subrule 48.6(2) and may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

f. If, upon review of the examination in paragraph 48.5(3) “d,” the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall do one of the following for projects that received a refund notice or tax credit certificate on or after July 1, 2021:

(1) If the project costs do not cause the housing project’s average dwelling unit cost to exceed the applicable maximum amount authorized in ~~subrule 48.4(1)~~ rule 261—48.4(15), the authority may consider the agreement fulfilled and may issue a tax credit certificate.

(2) If the project costs cause the housing project’s average dwelling cost to exceed the applicable maximum amount authorized in ~~paragraph 48.4(1) “e”~~ rule 261—48.4(15) but do not cause the average dwelling unit cost to exceed ~~440~~ 150 percent of such applicable amount, the authority shall reduce the tax incentive award and the corresponding amount of tax incentives the eligible project may claim under rule 261—48.6(15) by the same percentage that the housing project’s average dwelling cost exceeds the applicable maximum amount under ~~paragraph 48.4(1) “e,”~~ rule 261—48.4(15), and such tax incentive reduction shall be reflected on the tax credit certificate. If the authority issues a certificate pursuant to this subrule, the department of revenue shall accept the certificate notwithstanding that the housing project’s average dwelling unit cost exceeds the maximum amount specified in ~~paragraph 48.4(1) “e.”~~ rule 261—48.4(15).

(3) If the project costs cause the housing project’s average dwelling unit cost to exceed ~~440~~ 150 percent of the applicable maximum amount authorized in ~~paragraph 48.4(1) “e,”~~ rule 261—48.4(15), the authority shall determine the eligible housing business to be in default under the agreement, shall revoke the tax incentive award and shall not issue a tax credit certificate. The housing business shall not be allowed a refund of sales and use tax under rule 261—48.6(15).

ITEM 11. Amend rule 261—48.9(15) as follows:

261—48.9(15) Housing project minimum requirements. To receive disaster recovery housing tax incentives pursuant to the program, a proposed disaster recovery housing project shall meet all of the following requirements:

48.9(1) The project includes at least one of the following:

- a.* Four or more single-family dwelling units, except for a project located in a small city, then two or more single-family dwelling units.
- b.* One or more multiple dwelling unit buildings each containing three or more individual dwelling units.
- c.* Two or more dwelling units located in the upper story of an existing multi-use building.

48.9(2) The project consists of any of the following:

- a.* Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units. Redevelopment at a brownfield site or grayfield site includes construction of new buildings.
- b.* The rehabilitation, repair, or redevelopment of dilapidated dwelling units.
- c.* The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~d. The new construction, rehabilitation, repair, or redevelopment of dwelling units in a distressed workforce housing community. The authority will determine whether a community is considered a distressed workforce housing community pursuant to subrule 48.4(2).~~

~~e. d. For a project located in a small city that meets the minimum housing project requirements under this subrule, development at a greenfield site. A project located in a small city is not required to complete the distressed workforce housing community application pursuant to subrule 48.4(2).~~

~~f. e. For a disaster recovery housing project, development at a greenfield site.~~

~~48.9(3) Except as provided in subrules 48.9(4) and 48.9(5) below, the The average dwelling unit cost does not exceed \$200,000 per dwelling unit. For purposes of this rule, the average dwelling unit cost equals the costs directly related to the housing project divided by the total number of dwelling units in the housing project the applicable maximum amount established by the board pursuant to rule 261—48.4(15).~~

~~48.9(4) The average dwelling unit cost does not exceed \$250,000 per dwelling unit if the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(8) “a.”~~

~~48.9(5) The average dwelling unit cost does not exceed \$215,000 per dwelling unit if the project is located in a small city.~~

~~48.9(6) 48.9(4) The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development’s housing quality standards and all applicable local safety standards.~~

~~48.9(7) 48.9(5) The project is not located in a 100-year floodplain.~~

ITEM 12. Amend subrule 48.10(3) as follows:

48.10(3) Agreement and fees.

a. Upon receipt of a tax incentive award to the disaster recovery housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the disaster recovery housing program. The agreement shall identify the tax incentive award amount, the tax incentive award date, the project completion deadline, and the total costs of the disaster recovery housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under the program and shall be collected by the authority in the same manner and to the same extent as described in Iowa Code section 15.330(12).

c. A housing business shall complete its disaster recovery housing project within three years from the date incentives are awarded by the authority to the disaster recovery housing project. The authority may extend a housing project’s completion deadline as described in subparagraph 48.5(3) “c”(2).

d. Upon completion of a disaster recovery housing project, a housing business shall submit all of the following to the authority:

(1) An examination of the project in accordance with the American Institute of Certified Public Accountants’ statements on standards for attestation engagements, completed by a certified public accountant (CPA) authorized to practice in this state. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA’s professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.10(3) “a”; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

e. Upon review of the examination as described in paragraph 48.10(3)“*d.*” verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.10(3)“*d*”(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2), and may issue a tax credit certificate to the housing business stating the amount of disaster recovery housing investment tax credits under rule 261—48.11(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

f. If, upon review of the examination in paragraph 48.10(3)“*d.*” the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall proceed as described in paragraph 48.5(4)“*f.*”

ITEM 13. Amend **261—Chapter 48**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 15.351 to through 15.356 and 2022 Iowa Acts, Senate File 2325, sections 7 through 13.

[Filed 8/1/22, effective 9/28/22]

[Published 8/24/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/24/22.

ARC 6468C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Rule making related to paraeducator substitute authorization

The Educational Examiners Board hereby amends Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

This amendment allows the Director of the Board to grant permission for a paraeducator to serve as a substitute teacher outside of the paraeducator’s assigned special education classroom based on documented need.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 9, 2022, as **ARC 6228C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 6229C** on the same date.

A public hearing was held on March 29, 2022, at 11 a.m. in the Board of Educational Examiners Board Room, 701 East Court Avenue, Suite A, Des Moines, Iowa. No one attended the public hearing. Two written comments were received, and three comments were made during the special rule review at the July 19, 2022, Administrative Rules Review Committee meeting.

One change from the Notice has been made. Additional language proposed by the commenters and included in 2022 Iowa Acts, House File 2493, has been added to the subrule.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Adoption of Rule Making

This rule making was adopted by the Board on August 3, 2022.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

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 September 28, 2022, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making action is adopted:

Amend subrule 24.4(9) as follows:

24.4(9) Paraeducator substitute authorization. An individual who holds a paraeducator certificate and completes the substitute authorization requirements set forth in rule 282—22.2(272) but who does not meet the degree requirement in 282—subparagraph 22.2(1)“a”(2) is authorized to substitute only in the special education classroom in which the individual paraeducator is employed, unless emergency permission is granted by the executive director or designee based on documented need provided by the employer. The employer shall make a good-faith effort to employ a substitute teacher who is not a paraeducator before requesting such emergency permission. A school district employing a paraeducator as a substitute pursuant to this subrule shall compensate the person at the higher rate of either the school district's substitute pay per diem or the hourly pay to which the paraeducator is otherwise entitled.

[Filed 8/4/22, effective 9/28/22]

[Published 8/24/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/24/22.

ARC 6481C

EDUCATION DEPARTMENT[281]**Adopted and Filed****Rule making related to Iowa vocational rehabilitation services**

The State Board of Education hereby rescinds Chapter 56, “Iowa Vocational Rehabilitation Services,” Iowa Administrative Code, and adopts a new Chapter 56 with the same title.

EDUCATION DEPARTMENT[281](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 259.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 259.

Purpose and Summary

In addition to fulfilling the requirement that state agencies review their rules every five years, Iowa Vocational Rehabilitation Services (IVRS), a division of the Iowa Department of Education, rules need updates for other reasons. When the federal Workforce Innovation and Opportunity Act was passed in 2014, the rules were updated with the initial interpretation of the federal regulatory guidance. Since then, the Rehabilitation Services Administration (RSA), IVRS's federal governing body, has implemented its interpretation and issued additional information, which caused existing rules to be out of compliance.

Additionally, IVRS has focused on innovation of services over the last five years. This has led to the implementation of changes to a variety of services that are more equitable for the individuals with disabilities IVRS serves. IVRS has spent the last three years updating all policies within the IVRS policy and procedures manual, so an update to the rules in this chapter is also timely.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 15, 2022, as **ARC 6373C**.

A public hearing was held on July 5, 2022, at 2 p.m. at Iowa Vocational Rehabilitation Services, Mitchell Training Room, 510 East 12th Street, Des Moines, Iowa, with an option for videoconference participation. No one attended the public hearing. No public comments were received. Since publication of the Notice, a nonsubstantive change to punctuation was made to improve readability. No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on August 4, 2022.

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.

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).

EDUCATION DEPARTMENT[281](cont'd)

Effective Date

This rule making will become effective on September 28, 2022.

The following rule-making action is adopted:

Rescind 281—Chapter 56 and adopt the following new chapter in lieu thereof:

TITLE XI
VOCATIONAL REHABILITATION EDUCATION

CHAPTER 56
IOWA VOCATIONAL REHABILITATION SERVICES

281—56.1(259) Nature and responsibility of division. The division of vocational rehabilitation services is established in the department of education and is responsible for providing services to potentially eligible and eligible individuals with disabilities leading to competitive integrated employment in accordance with Iowa Code chapter 259, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations.

281—56.2(259) Nondiscrimination. The division shall not discriminate on the basis of age, race, creed, color, gender, sexual orientation, gender identity, national origin, religion, duration of residency, or disability in the determination of a person's eligibility for rehabilitation services and in the provision of necessary rehabilitation services.

281—56.3(259) Definitions. For the purpose of this chapter, the indicated terms are defined as follows:

“Act” means the federal Rehabilitation Act of 1973 as amended and codified at 29 U.S.C. Section 701, et seq.

“Aggregate data” means information about one or more aspects of division job candidates, or from some specific subgroup of division job candidates, but from which personally identifiable information on any individual cannot be discerned.

“Applicant” means an individual or the individual's representative, as appropriate, who has completed the IVRS Application for Services (R-412), a common intake application form through a one-stop center requesting IVRS services, or has otherwise requested services from IVRS; has provided to IVRS information necessary to initiate an assessment to determine eligibility and priority for services; is available to complete the assessment process; and has reviewed and signed the Rights and Responsibilities (IPE-1).

“Appropriate modes of communication” means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated.

“Assessment for determining eligibility or in the development of an IPE” means a review of existing data and, to the extent necessary, the provision of appropriate assessment activities to obtain additional information to make a determination and to assign the priority for services or development of an IPE.

“Assistive technology device” means the same as defined in Section 3 of the Assistive Technology Act of 1998, as amended.

“Assistive technology service” means the same as defined in Section 3 of the Assistive Technology Act of 1998, as amended.

“Benefits planning” means assistance provided to an individual who is interested in becoming employed, but is uncertain of the impact work income may have on any disability benefits and entitlements being received, and is or is not aware of benefits, such as access to health care, that might be available to support employment efforts.

“Case record” means the file of personally identifiable information, whether written or electronic in form, on an individual that is collected to carry out the purposes of the division as defined in the Act. This information remains a part of the case record and is subject to these rules even when temporarily physically removed, either in whole or in part, from the file folder in which it is normally kept.

EDUCATION DEPARTMENT[281](cont'd)

“Community rehabilitation program” or *“CRP”* means an approved program (agency, organization, or institution, or unit of any one of these, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions) that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

1. Medical, psychiatric, psychological, social, and vocational services that are provided under one management.
2. Testing, fitting, or training in the use of prosthetic and orthotic devices.
3. Recreational therapy.
4. Speech, language and hearing therapy.
5. Psychiatric, psychological, and social services, including positive behavior management.
6. Assessment for determining eligibility and vocational rehabilitation needs.
7. Rehabilitation technology.
8. Job development, placement, and retention services.
9. Evaluation or control of specific disabilities.
10. Orientation and mobility services for individuals who are blind.
11. Extended employment.
12. Psychosocial rehabilitation services.
13. Supported employment services and extended services.
14. Customized employment.
15. Services to family members if necessary to enable the applicant to achieve an employment outcome.
16. Personal assistance services.
17. Other similar services.

“Comparable services and benefits” means services and benefits including accommodations and auxiliary aids and services that are provided or paid for in whole or in part by other federal, state, or local public agencies, by health insurance or by employee benefits; are available to the individual at the time needed to ensure the individual’s progress toward achieving an employment outcome in accordance with the individual’s IPE; and are commensurate to the services that the individual would otherwise receive from the division. For purposes of this definition, comparable benefits do not include educational awards and scholarships based on merit.

“Competitive integrated employment” means work in the competitive labor market that:

1. Is performed on a full-time or part-time basis, including self-employment, in an integrated setting and for which the job candidate is compensated at a rate that:
 - Shall not be less than the higher of the rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 or the rate specified in the applicable state or local minimum wage law;
 - Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills;
 - Is eligible for the level of benefits provided to other employees; and
 - A self-employed individual with a disability in the start-up phase of a business venture who is making less than the applicable minimum wage can meet the definition of “competitive integrated employment.”
2. Is at a location where the employee interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with disabilities (not including supervisory personnel or individuals providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and
3. As appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities who have similar positions.

EDUCATION DEPARTMENT[281](cont'd)

“Competitive integrated work setting,” with respect to the provision of services, means a setting, typically found in the community, in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, and said interaction is consistent with the quality of interaction that would normally occur in the performance of work by the nondisabled coworkers.

“Customized employment” means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability; is designed to meet the specific abilities of the individual with a disability and the business needs of the employer; and is carried out through flexible strategies.

“Department” means the department of education.

“Designated representative” means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the designated representative.

“Designated state unit” or *“DSU”* means Iowa vocational rehabilitation services.

“Division” or *“IVRS”* means Iowa vocational rehabilitation services.

“Eligible individual” means an applicant for services from the division who meets the eligibility requirements.

“Employment outcome” means, with respect to an individual, entering, advancing in, or retraining full-time or, if appropriate, part-time competitive integrated employment; supported employment; or any other type of employment, including customized employment, self-employment, telecommuting, or business ownership, that is consistent with an individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

“Extended employment” means work in a nonintegrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

“Extended services” means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are:

1. Provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;
2. Organized or made available singly or in combination with other services to assist an eligible individual in maintaining supported employment;
3. Based on a determination of the needs of an eligible individual, as specified in the individual’s IPE;
4. Provided by an appropriate source after an individual has made the transition from support provided by the DSU; and
5. Provided to a youth with a most significant disability by the DSU for a period not to exceed four years, or at such a time that a youth reaches age 25 and no longer meets the definition of a youth with a disability, whichever occurs first. The DSU may not provide extended services to an individual with a most significant disability who is not a youth with a most significant disability.

“Family income,” for purposes of calculating the financial participation rate for services, means those who are financially responsible for the support of the job candidate and may involve individuals who live in the same or separate households including partners and spouses.

“Family member,” for purposes of vocational rehabilitation services, means any individual who lives with the individual with a disability and has a vested interest in the welfare of that individual whether by marriage, birth, or choice. A family member is an individual who either (1) is a relative or guardian of an applicant or job candidate, or (2) lives in the same household as an applicant or job candidate, who has a substantial interest in the well-being of the applicant or job candidate, and whose receipt of vocational rehabilitation services is necessary to enable the applicant or job candidate to achieve an employment outcome.

EDUCATION DEPARTMENT[281](cont'd)

“IDEA” means the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

“Impartial hearing officer” or *“IHO”* means an individual who:

1. Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);
2. Is not a member of the state rehabilitation council for the designated state unit;
3. Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services;
4. Has knowledge of the delivery of vocational rehabilitation services, the vocational rehabilitation services portion of the unified or combined state plan, and the federal and state regulations governing the provision of services;
5. Has received training with respect to the performance of official duties; and
6. Has no personal, professional, or financial interest that could affect the objectivity of the individual.

An individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer.

“Independent living services” or *“IL services”* means services authorized under Title VII, chapter 1, part B of the Rehabilitation Act of 1973, as amended.

“Individualized plan for employment” or *“IPE”* means a plan that specifies the services needed by an eligible individual and the responsibilities of the individual with a disability and other payers. An IPE includes specifics regarding the services needed to lead toward competitive integrated employment, including the following provisions:

1. Includes a description of the specific employment outcome that is chosen by the eligible individual and is consistent with the individual’s unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choices consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student or a youth with a disability, the description may be of the individual’s projected postschool employment outcome);
2. Includes a description of the specific rehabilitation services needed to achieve the employment outcome and for a student or youth with a disability, the specific transition services and supports needed to achieve the individual’s employment outcome or projected postschool employment outcome;
3. Provides for services in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;
4. Includes timelines for the achievement of the employment outcome and initiation of services;
5. Includes a description of the entity or entities chosen by the eligible individual or, as appropriate, the individual’s representative that will provide the vocational rehabilitation services and the methods used to procure those services;
6. Includes a description of the criteria that will be used to evaluate the progress toward achievement of the employment outcome; and
7. Includes the terms and conditions for the IPE, including, as appropriate, information describing the responsibilities of the DSU; the responsibilities of the eligible individual in relation to achieving the employment outcome and extent of financial participation (if applicable) as outlined in subrule 56.6(5), as well as the responsibility of the individual to apply for and secure comparable benefits and services; and the responsibilities of other entities as the result of arrangements made pursuant to the comparable benefits and services requirements.

“Individual with a disability” means an individual who has a physical or mental impairment, whose impairment constitutes a substantial impediment to employment, and who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

“Individual with a most significant disability” means an individual who is seriously limited in three or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome.

“Individual with a significant disability” means an individual who has a significant physical or mental impairment that seriously limits one or more functional capacities (such as mobility,

EDUCATION DEPARTMENT[281](cont'd)

communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome or who is a recipient of SSDI, SSI, or both due to the individual's disability.

"Institution of higher education" or *"IHE"* means the same as defined in Section 102(a) of the Higher Education Act of 1965.

"Job candidate" means an applicant or eligible individual applying for or receiving benefits or services from any part of the division and shall include former job candidates of the division whose files or records are retained by the division.

"Job retention waiting list release" means the mechanism used to remove a job candidate from the division waiting list when the individual is at immediate risk of losing the job and requires vocational rehabilitation service(s) or good(s) in order to maintain employment. This applies only for those service(s) or good(s) that will allow the individual to maintain employment. After the individual receives said service(s) or good(s), the individual's file will be closed if the individual is satisfied with the services provided and requires no further services. If there are additional services needed, the individual will return to the waiting list, if necessary, until that point where the individual's priority of service is being served.

"Maintenance" means monetary support provided to a job candidate for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the job candidate and that are necessitated by the job candidate's participation in an assessment for determining eligibility and vocational rehabilitation needs or the job candidate's receipt of vocational rehabilitation services under an IPE.

"Mediation" means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies.

"Menu of services" means the services provided by community partners to assist an individual with a disability in achieving an employment outcome. Menu of services refers to various services that the division is able to purchase from an approved CRP or other approved provider on behalf of a job candidate. The services are selected and jointly agreed upon by the counselor and job candidate of the division. Payments for services are made based on a fee structure that is published and updated annually, and there is no financial needs assessment applied toward the costs of these purchased services from the community partner.

"Ongoing support services" means services that are written in the IPE; are needed to support and maintain individuals with the most significant disabilities in supported employment; are provided by the division from the time of job placement until transition to extended services, unless postemployment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement; are provided, at a minimum, twice monthly to make an assessment regarding the employment situation at the work site and coordinate provision of specific intensive services needed to maintain stability; are provided by skilled job trainers who accompany the individual for intensive job skill training at the work site; include social skills training, assessment and evaluation of progress, job development and retention, placement services, and follow-up services with the business and the individual's representatives; and facilitate development of natural supports or any other service(s) needed to maintain employment.

"Personal assistance services" means a range of services provided by one or more persons, including, among other things, training in managing, supervising, and directing personal assistance services, that are designed to assist an individual with a disability to perform, on or off the job, daily living activities that the individual would typically perform without assistance if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job, necessary to the achievement of an employment outcome, and provided only while the individual is receiving other vocational rehabilitation services.

"Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs,

EDUCATION DEPARTMENT[281](cont'd)

respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, or endocrine; or

2. Any mental or psychological disorder such as an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

“Physical or mental restoration services” means:

1. Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

2. Diagnosis and treatment of a physical, mental or cognitive disorder by qualified personnel in accordance with state licensure laws to include:

- Dentistry;
- Nursing services;
- Necessary hospitalization (either inpatient or outpatient) in connection with surgery or treatment and clinical services;
- Drugs and supplies;
- Prosthetic and orthotic devices;
- Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescope lenses, and other special visual aids prescribed by personnel who are qualified in accordance with state licensure laws;
- Podiatry;
- Physical therapy;
- Occupational therapy;
- Speech or hearing therapy;
- Mental health services;
- Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical or mental restoration services, or that are inherent in the condition under treatment;
- Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and
- Other medical or medically related rehabilitation services.

“Plan for natural supports” means a plan initiated prior to the implementation of the supported employment program that describes the natural supports to be used on the job; the training provided to the supervisor and mentor on the job site; the technology used in the performance of the work; the rehabilitation strategies and trainings that will be taught to the mentor in order to support and direct the job candidate on the job; the supports needed outside of work for the job candidate to be successful; and the methods by which the employer can connect with the job candidate’s job coach/IVRS staff member, or the training program when the need arises.

“Postemployment services” means one or more services that are intended to ensure that the employment outcome remains consistent with the individual’s unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These services are available to meet the rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, are limited in scope and duration.

“Potentially eligible” for the purposes of preemployment transition services means all students with disabilities. A student is considered potentially eligible until the student has applied for services and an eligibility decision has been determined.

“Preemployment transition services” or *“pre-ETS”* means those services specified in 34 CFR Section 361.48(a).

“Recognized educational program” includes secondary education programs, nontraditional or alternative secondary education programs (including homeschooling), postsecondary education programs, and other recognized educational programs such as those offered through the juvenile justice system.

EDUCATION DEPARTMENT[281](cont'd)

“Rehabilitation technology” means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

“Satisfactory employment” means stable employment in a competitive integrated employment setting that is consistent with the individual’s IPE and acceptable to both the individual and the employer.

“Self-employment services” means services to assist individuals with disabilities to achieve a self-employment outcome consistent with the individual’s abilities, preferences and needs. Self-employment is a vocational option through the division that is available only to for-profit businesses intended for operation within the state of Iowa. The division provides two options within the program, which include the full self-employment program and micro-enterprise development. These services provide information, strategies and resources to help the business become self-sustaining while assisting the individual in assuring all necessary supports are in place for long-term success.

“Status” means the existing condition or position of a case. The specific case statuses are as follows:

1. 00-0 Referral for services.
2. 01-0 Potentially eligible student.
3. 01-1 Closed from potentially eligible.
4. 02-0 Applicant.
5. 04-0 Waiting list.
6. 08-0 Closed before acceptance (from Status 02-0).
7. 10-0 Accepted for services (plan development) adults.
8. 10-1 Accepted for services (plan development) high school students.
9. 14-0 Counseling and guidance.
10. 16-0 Physical and mental restoration.
11. 18-__ Training.
 - 18-1 Work adjustment training/assessment.
 - 18-2 On-the-job training.
 - 18-3 Vocational-technical training.
 - 18-4 Academic training.
 - 18-5 Secondary education.
 - 18-6 Supported employment.
 - 18-7 Other types of training (including nonsupported employment job coaching, job development, ISE).
12. 20-0 Ready for employment.
13. 22-0 Employed.
14. 24-0 Services interrupted.
15. 26-0 Closed rehabilitated.
16. 28-0 Closed after IPE initiated (from Status 14-0 through 24-0).
17. 30-0 Closed before IPE initiated (from Status 10-__).
18. 32-0 Postemployment services (from Status 26-0).
19. 33-__ Closed after postemployment services (from Status 32-0).
 - 33-1 Individual is returned to suitable employment or the employment situation is stabilized.
 - 33-2 The case has been reopened for comprehensive vocational rehabilitation services.
 - 33-3 The postemployment services are no longer assisting the individual and further services would be of no assistance.
20. 38-0 Closed from Status 04-0 (individual does not meet one of the waiting list categories, and the individual no longer wants to remain on the waiting list or fails to respond when contacted because individual’s name is at the top of the waiting list).

“Student with a disability” means an individual with a disability in a secondary, postsecondary, or other recognized education program who is not younger than 14 years of age and not older than 21

EDUCATION DEPARTMENT[281](cont'd)

years of age; and is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act or is a student who is an individual with a disability, for purposes of Section 504.

“Substantial impediment to employment” means a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) that hinders an individual from preparing for, entering into, engaging in, or retaining competitive integrated employment consistent with the individual’s abilities and capacities.

“Supported employment” means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability is working on a short-term basis toward competitive integrated employment. Such employment is individualized consistent with the strengths, abilities, interests, and informed choice of the individual who is receiving ongoing support services for individuals with the most significant disabilities for whom competitive integrated employment has not historically occurred, or for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and who, because of the nature and severity of the individual’s disabilities, needs intensive supported employment services and extended services after the transition from support provided by the division in order to perform this work.

“Supported employment services” means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that are organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment; based on a determination of the needs of an eligible individual, as specified in an IPE; provided by IVRS for a period of time not to exceed 24 months, unless under special circumstances the eligible individual and rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE; and following transition, as postemployment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

“Transition services” means a coordinated set of activities provided to a student or youth with a disability and designed within an outcome-oriented process that promotes movement from school to postschool activities. Postschool activities include postsecondary education, vocational training, competitive integrated employment including supported employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities must be based upon the individual student’s or youth’s needs, taking into account the student’s or youth’s preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student’s or youth’s IPE. Transition services must also include outreach to and engagement of the parents or other representatives, as appropriate.

“Transportation” means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

“Vocational rehabilitation services” means those services identified under 34 CFR Section 361.48. For the benefit of groups of individuals, “vocational rehabilitation services” means those services listed in 34 CFR Section 361.49.

“Waiting list” means the listings of eligible individuals for vocational rehabilitation services who are not in a category being served, otherwise known as “order of selection” under the Workforce Innovation and Opportunity Act of 2014.

“Youth with a disability” means an individual with a disability who is not younger than 14 years of age and not older than 24 years of age.

281—56.4(259) Referral and application for services.

56.4(1) General.

EDUCATION DEPARTMENT[281](cont'd)

a. The division has established and implemented standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the one-stop service delivery systems under Section 121 of the Workforce Innovation and Opportunity Act. The standards include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

b. A referral for a student with a disability requesting preemployment transition services (pre-ETS) includes completion of the pre-ETS agreement.

c. Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in one-stop centers under Section 121 of the Workforce Innovation and Opportunity Act, an eligibility determination must be made within 60 days, unless exceptional and unforeseen circumstances beyond the control of the division preclude making an eligibility determination within 60 days and the division and the individual agree to a specific extension of time.

d. An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate, has completed an agency application form including written consent; has completed a common intake application form in a one-stop center requesting vocational rehabilitation services or has otherwise requested services from the division; has provided to the division information necessary to initiate an assessment to determine eligibility and priority for services; and is available to complete the assessment process. The division ensures that its application forms are widely available throughout the state, particularly in the one-stop centers under Section 121 of the Workforce Innovation and Opportunity Act.

e. The division will refer applicants or eligible individuals to appropriate programs and service providers best suited to address the specific rehabilitation, independent living and employment needs of the individual with a disability. Individuals with the most significant disabilities who are working at subminimum wage in a nonintegrated setting are provided information about competitive integrated employment and support from the division, once known to the division, by qualified personnel and partners with the goal of assisting said individuals to pursue competitive integrated employment.

f. The division will inform those who decide against pursuit of employment that services may be requested at a later date if, at that time, they choose to pursue an employment outcome.

56.4(2) *Individuals who are blind.* Pursuant to rule 111—10.4(216B), individuals who meet the department for the blind (IDB) definition of “blind” are to be served primarily by IDB. Joint cases are served pursuant to any applicable memorandum of agreement executed between the division and IDB.

281—56.5(259) Eligibility for vocational rehabilitation services.**56.5(1) *General.***

a. Eligibility for vocational rehabilitation services shall be determined upon the basis of the following:

(1) A determination by a qualified rehabilitation counselor that the applicant has a physical or mental impairment documented by a qualified provider;

(2) A determination by a qualified rehabilitation counselor that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant; and

(3) A determination by a qualified vocational rehabilitation counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

b. For purposes of an assessment for determining eligibility and vocational rehabilitation needs, an individual is presumed to have a goal of an employment outcome. The applicant's completion of the application process for vocational rehabilitation services is sufficient evidence of the individual's intent

EDUCATION DEPARTMENT[281](cont'd)

to achieve an employment outcome. If at any time the individual decides to no longer pursue competitive integrated employment, the individual is no longer eligible for division services.

56.5(2) Presumptions. A presumption exists that the applicant who meets the eligibility requirements in subparagraphs 56.5(1) “a”(1) and 56.5(1) “a”(2) can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. Any applicant who has been determined eligible for social security benefits under Title II or Title XVI of the Social Security Act based on the applicant’s own disability is presumed eligible for vocational rehabilitation services and is considered an individual with a significant disability. IVRS staff must verify the applicant’s eligibility. Recipients who demonstrate eligibility under subrule 56.6(1) must also demonstrate need in the individualized plan for employment (IPE) under subrule 56.6(3). Nothing in this rule automatically entitles a recipient of social security disability insurance or supplemental security income payments to any good or service provided by the division. Qualified IVRS personnel will identify and document the individual as a recipient of social security benefits based on disability, and the determination of impediments to employment and need for services will be documented by the qualified rehabilitation counselor.

56.5(3) Standards for ineligibility. If the division determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an IPE is no longer eligible for services, including preemployment transition services (pre-ETS), the division must:

- a. Make the determination only after providing an opportunity for full consultation with the individual or, as appropriate, the individual’s representative;
- b. Inform the individual in writing, supplemented as necessary with appropriate modes of communication, consistent with the informed choice of the individual, of the ineligibility determination, the requirements in this rule, and the means by which the individual may seek remedy for any dissatisfaction, including the procedures for review of IVRS determinations;
- c. Provide to the individual the individual’s appeal or mediation rights;
- d. Provide the individual information on the client assistance program (CAP);
- e. Refer the individual to other programs that are part of the one-stop service delivery system under the Workforce Innovation and Opportunity Act (WIOA) that can address the individual’s training- or employment-related needs or to federal, state, or local programs or service programs or service providers, including, as appropriate, independent living programs and extended employment providers, best suited to meet the individual’s rehabilitation needs if the ineligibility determination is based on a finding that the individual has chosen not to pursue services, or if the individual has decided to pursue subminimum wage employment; and
- f. At the request of the individual or representative, as applicable, a review of the decision within 12 months of the date of that decision.

56.5(4) Residency. There is no duration of residency requirement; however, an individual seeking services from the agency must be present and available for participation in services.

281—56.6(259) Other eligibility and service determinations.

56.6(1) Waiting list.

a. As required by the Act and 34 CFR Section 361.36, if the division cannot serve all eligible individuals who apply, the division shall develop and maintain a waiting list for services based on significance of disability. The three categories of waiting lists are as follows, listed in order of priority to be served:

- (1) Most significantly disabled;
- (2) Significantly disabled; and
- (3) Others eligible.

b. An individual’s order of selection is determined by the waiting list and the date on which the individual applied for services from IVRS. All waiting lists are statewide in scope; no regional lists are to be maintained. Assessment of the significance of an applicant’s disability is done during the process of determining eligibility but may continue after the individual has been placed on a waiting list. Individuals

EDUCATION DEPARTMENT[281](cont'd)

who do not meet the order of selection criteria will have access to services provided through information and referral. The division will provide the individual:

- (1) A notice of the referral;
 - (2) Information identifying a specific point of contact at the agency to which the individual is referred; and
 - (3) Information and advice on the referral regarding the most suitable services to assist the individual.
- c. Job retention services are available for those individuals who meet the requirements for those services.

56.6(2) Options for individualized plan for employment (IPE) development.

a. The division provides information on the available options for developing the IPE, including the option that an eligible individual, or as appropriate, the individual's representative, may develop all or part of the IPE without assistance from the division or other entity; or with assistance from:

- (1) A qualified vocational rehabilitation counselor employed by IVRS;
- (2) A qualified vocational rehabilitation counselor not employed by IVRS;
- (3) A disability advocacy organization, such as the CAP or Disability Rights Iowa (DRI), or any other advocacy organization of the individual's choosing; or
- (4) Resources other than those mentioned above, such as the individual's case manager or a representative of the division under the guidance of a division vocational rehabilitation counselor.

b. The IPE is not approved or put into practice until it is discussed and reviewed; amended, if applicable; and approved by the job candidate and the vocational rehabilitation counselor employed by the division.

c. There is no compensation for any expenses incurred while the IPE is developed with any entity not employed by the division.

d. If the job candidate is not on the division waiting list and requires some assessment services to develop the IPE, the job candidate must discuss the needs in advance with the division counselor and obtain prior approval if financial assistance is needed from the division to pay for the assessment service.

e. For individuals entitled to benefits under Title II or XVI of the Social Security Act on the basis of a disability or blindness, the division must provide to the individual general information on additional supports and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning.

f. The job candidate's signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the job candidate.

g. The IPE implementation date begins on the date of the division counselor's signature.

56.6(3) Content of the individualized plan for employment (IPE). Each IPE must include:

a. A description of the specific employment outcome, as defined in 34 CFR Section 361.5(c)(15), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student or a youth with a disability, the description may be a description of the individual's projected postschool employment outcome);

b. The specific rehabilitation services needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services;

c. In the case of a plan for an eligible individual who is a student or youth with a disability, the specific transition services and supports needed to achieve the individual's employment outcome or projected postschool employment outcome;

d. The provision of services in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;

e. Timelines for the services on the IPE and for the achievement of the employment outcome;

EDUCATION DEPARTMENT[281](cont'd)

f. A description of the entity or entities chosen by the eligible individual or, as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure those services (the division does not supplant services for which another entity is responsible);

g. A description of the criteria that will be used to evaluate progress toward achievement of the employment outcome;

h. The terms and conditions of the IPE, including, as appropriate, information describing: the responsibilities of the division; the responsibilities of the eligible individual, including the responsibilities the individual will assume in relation to achieving the employment outcome; if applicable, the extent of the individual's participation in paying for the cost of services; and the responsibility of the individual with regard to applying for and securing comparable services and benefits as described in 34 CFR Section 361.53; and the responsibilities of other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in 34 CFR Section 361.53; and

i. For postemployment services, as applicable, the expected need for postemployment services prior to closing the record of services of an individual who has achieved an employment outcome; a description of the terms and conditions for the provision of any postemployment services; and, if appropriate, a statement of how postemployment services will be provided or arranged through other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in 34 CFR Section 361.53.

j. For an IPE for an individual with a most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate:

- (1) The supported employment services to be provided by the division;
- (2) The expected extended services needed, which may include natural supports;
- (3) The source of extended services or, to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed, a description of the basis for concluding that there is a reasonable expectation that those sources will become available;
- (4) Periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the individualized plan for employment by the time of transition to extended services;
- (5) The coordination of services provided under an IPE with services provided under other individualized plans established under other federal or state programs;
- (6) To the extent that job skills training is provided, identification that the training will be provided on site; and
- (7) Placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.

k. In the development of an IPE for a student with a disability, the division coordinates with the individualized education program (IEP) or 504 services, as applicable, for that individual in terms of the goals, objectives, and services identified in the IEP.

No expenditures associated with the job candidate-developed plan are the responsibility of IVRS, unless agreed to and approved by the IVRS counselor. Written approval for services must be obtained prior to any IVRS financial obligation.

All IPE services are provided, unless amended and determined unnecessary. The division exercises its discretion in relation to the termination or amendment of the individual's IPE when, for any reason, it becomes evident that the IPE cannot be completed.

56.6(4) Scope of services.

a. Preemployment transition services (pre-ETS). In collaboration with the local educational agencies involved, the division ensures that pre-ETS are arranged and available to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services, as defined in 34 CFR Section 361.5(c)(51). Pre-ETS include:

- (1) Required activities. The division must provide the following required activities:
 1. Job exploration counseling;

EDUCATION DEPARTMENT[281](cont'd)

2. Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;

3. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

4. Workplace readiness training to develop social skills and independent living; and

5. Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

(2) Authorized activities. Funds available and remaining after the provision of the required activities may be used to improve the transition of students with disabilities from school to postsecondary education or an employment outcome by:

1. Implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;

2. Developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently; participate in postsecondary education experiences; and obtain, advance in and retain competitive integrated employment;

3. Providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;

4. Disseminating information about innovative, effective, and efficient approaches to achieve the goals of this rule;

5. Coordinating activities with transition services provided by local educational agencies under the IDEA;

6. Applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel in order to better achieve the goals of this rule;

7. Developing model transition demonstration projects;

8. Establishing or supporting multistate or regional partnerships involving states, local educational agencies, designated state units, developmental disability agencies, private businesses, or other participants to achieve the goals of this rule; and

9. Disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved and underserved populations.

(3) Preemployment transition coordination. Each local office of a designated state unit must carry out responsibilities consisting of:

1. Attending individualized education program meetings for students with disabilities, when invited;

2. Working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;

3. Working with schools, including those carrying out activities under Section 614(d) of the IDEA, to coordinate and ensure the provision of preemployment transition services under this rule;

4. When invited, attending person-centered planning meetings for individuals receiving services under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.).

(4) Completion of the pre-ETS agreement outlines the agreed-upon preemployment transition services needed by the student with a disability. When it is necessary to purchase these services, written prior approval must be obtained from the division.

Once an individual applies for services, the division may provide certain services (e.g., assessments for the determination of eligibility and plan development). The preemployment transition services listed above may continue for students with disabilities (as applicable).

b. Vocational services for eligible individuals not on a waiting list are services described in an IPE and are necessary to assist the eligible individual in preparing for, obtaining, retaining, regaining, or advancing in employment if the failure to advance is due to the disability, consistent with informed

EDUCATION DEPARTMENT[281](cont'd)

choice. Funding for such services is provided in accordance with the division policies. The services include:

- (1) Assessment for determining services needed to achieve competitive integrated employment;
- (2) Counseling and guidance, which means career counseling to provide information and support services to assist the eligible individual in making informed choices;
- (3) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce development system, and through agreements with other organizations and agencies as well as advising individuals about the client assistance program;
- (4) Job-related services to facilitate the preparation for, obtaining of, and retaining of employment to include job search, job development, job placement assistance, job retention services, follow-up services and follow-along if necessary and required under the IPE;
- (5) Vocational and other training services, including personal and vocational adjustment training; advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business; books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing or any other postsecondary education institution) may be paid for with IVRS funds unless maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training, in accordance with the definition of that term in 34 CFR Section 361.48(b)(6);
- (6) Physical and mental treatment may be provided to the extent that financial support is not readily available from another source other than IVRS, such as health insurance of the individual or a comparable service or benefit, as defined in 34 CFR Section 361.5(c)(39), and said treatment is essential to the progression of the individual to achieve the competitive integrated employment outcome according to the following provisions:
 1. The service is necessary for the job candidate's satisfactory occupational adjustment;
 2. The condition causing the disability is relatively stable or slowly progressive;
 3. The condition is of a nature that treatment may be expected to remove, arrest, or substantially reduce the disability within a reasonable length of time;
 4. The prognosis for life and employability is favorable;
- (7) Maintenance services as defined in 34 CFR Section 361.5(c)(34), to the extent that the costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the job candidate or the job candidate's family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division's policy manual;
- (8) Transportation in connection with the provision of any vocational rehabilitation service and as defined in 34 CFR Section 361.5(c)(57), to the extent that when necessary to enable an applicant or a job candidate to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems, may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency;
- (9) Vocational rehabilitation services to family members, as defined in 34 CFR Section 361.5(c)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome;
- (10) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services;
- (11) Supported employment services as defined in 34 CFR Section 361.5(c)(42);
- (12) Occupational licenses, tools, equipment, initial stocks and supplies;
- (13) Rehabilitation technology as defined in 34 CFR Section 361.5(c)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices;

EDUCATION DEPARTMENT[281](cont'd)

(14) Transition services for a student or youth with a disability that facilitate the transition from school to postsecondary life, such as achievement of an employment outcome in competitive integrated employment, or preemployment transition services for students;

(15) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce development system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(16) Customized employment as defined in 34 CFR Section 361.5(c)(11); and

(17) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

56.6(5) *Specific services requiring financial assessment.*

a. Financial need must be established prior to the provision of certain services at the division's expense and is evidenced by use of the financial inventory needs tool utilized by the division. No financial needs test will occur for the following services:

(1) Assessment for eligibility and priority of services and determining vocational rehabilitation needs under 34 CFR Section 361.48(b)(2);

(2) Vocational rehabilitation counseling and guidance under 34 CFR Section 361.48(b)(3);

(3) Referral and other services under 34 CFR Section 361.48(b)(4);

(4) Job-related services under 34 CFR Section 361.48(b)(12);

(5) Personal assistance services under 34 CFR Section 361.48(b)(14); and

(6) Any auxiliary aid or service (e.g., interpreter services under 34 CFR Section 361.48(b)(10) or reader services under 34 CFR Section 361.48(b)(11)) that an individual with a disability requires.

b. Recipients of SSDI/SSI and foster care youth are not subject to a financial needs test but must demonstrate eligibility under subrule 56.6(1) and rule 281—56.5(259), as well as demonstrate need in the IPE.

(1) For the determination of financial need, the individual and the individual's family (when applicable) are required to provide information regarding all family income from any source that may be applied toward the cost of rehabilitation services, other than those services mentioned above, where the financial needs test does not apply. Family is considered to be any individuals who are financially responsible for the support of the job candidate, regardless of whether they reside in the same or separate households. A comparable services and benefits search is required for some services. The division shall not pay for more than the balance of the cost of services minus comparable services and benefits for the individual's documented contribution. When an individual refuses to supply information for the financial needs test, the individual assumes 100 percent responsibility for the costs of the rehabilitation.

(2) The division shall observe the following policies in deciding financial need based upon the findings:

1. All services requiring the determination of financial need are provided on the basis of supplementing the resources of the individual or of those responsible for the individual.

2. A division supervisor may grant an exception in cases where the individual's disability caused, or is directly related to, financial need and where all other sources of money have been exhausted by the individual and the guardian of the individual (when applicable).

3. Consideration shall be given to the individual's responsibility for the immediate needs and maintenance of the individual's dependents, and the individual shall be expected to reserve sufficient funds to meet the individual's family obligations and to provide for the family's future care, education and medical expenses.

4. Income up to a reasonable amount should be considered and determined based on the federal poverty guidelines associated with family size, income, and exclusions.

5. General assistance from state or federal sources is disregarded as a resource unless the assistance is a grant award for postsecondary training.

6. Grants and scholarships based on merit, while not required to be searched for as a comparable benefit, may be considered as part of the determination of financial support of a plan when a request is

EDUCATION DEPARTMENT[281](cont'd)

beyond the basic support for college. Public grants and institutional grants or scholarships not based on merit are considered a considerable benefit.

7. The division does not fund services for which another entity is responsible.

8. The division seeks and purchases the most economical goods (items/models) or services that meet the individual's vocational needs.

9. Goods and services are only authorized to those facilities and entities qualified and equipped to provide such goods and services.

56.6(6) *Maximum rates of payment to training facilities.* In no case shall the amount paid to a training facility exceed the rate published, and in the case of facilities not having published rates, the amount paid to the facility shall not exceed the amount paid to the facility by other public agencies for similar services. The division will maintain information necessary to justify the rates of payment made to training facilities.

56.6(7) *Areas in which exceptions shall not be granted.* Pursuant to federal law, an exception shall not be granted for any requirements that do not allow for such an exception (e.g., eligibility, required contents of the individualized plan for employment).

56.6(8) *Exceptions to duration of services.* As required by the Act and 34 CFR Section 361.50(d), the division shall have a method of allowing for exceptions to its rules regarding the duration of services. In order to exceed the duration of service as defined in the IPE, a job candidate must follow through on the agreed-upon IPE and related activities and keep the division informed of the job candidate's progress.

281—56.7(259) Purchasing principles for individual-specific purposes.

56.7(1) The division shall follow the administrative rules for purchasing goods and services promulgated by the department of administrative services.

56.7(2) The division shall purchase only those items or models that allow for a job candidate to meet the job candidate's vocational objective. The division shall not pay for additional features that exceed the requirements to meet a job candidate's vocational objective or that serve primarily to enhance the job candidate's personal life.

56.7(3) The division shall seek out and purchase the most economical item or model that meets the job candidate's vocational needs.

56.7(4) The division shall encourage all job candidates to develop strategies and savings programs to pay for replacement items/models or upgrades.

56.7(5) Items purchased for a job candidate become the property of the job candidate but may be repossessed by the division, subject to reimbursement to the job candidate for the job candidate's share of the purchase price, if the job candidate does not attain employment prior to case closure.

56.7(6) The division shall inform the job candidate that any change to planned purchases must be discussed and approved jointly before a purchase is made.

56.7(7) The division will not participate in the modification to property not owned by the job candidate or the job candidate's family without a division-approved exception to policy.

56.7(8) When considering what item or model to purchase for a specific job candidate, the division shall in all cases consider the following factors:

a. Whether the item or model is required for the job candidate to be able to perform the essential functions of the job candidate's job.

b. Whether other parties or entities may be responsible for providing or contributing to the costs of an item.

281—56.8(259) Review, mediation and appeal processes. At all times throughout the rehabilitation process, individuals accessing any IVRS services shall be informed of the right to appeal or mediation and the procedures by which to file. If an individual is dissatisfied with any agency decision that directly affects the individual, the individual or designated representative may appeal that decision or request mediation. The term "appellant" shall be used to indicate the individual or designated representative who initiates an appeal. The appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of

EDUCATION DEPARTMENT[281](cont'd)

the division. If the appeal process or mediation is initiated by telephone, the counselor or supervisor who received the call must complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal or request for mediation a written letter, facsimile, or electronic mail that indicates that the applicant or job candidate desires to appeal or seek mediation. An appeal or mediation request must be filed within 90 days of notification of the disputed decision. Once the appeal form or request for mediation has been filed with the division administrator, a hearing shall be held before an impartial hearing officer (IHO) or mediator within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension or one of the parties declines mediation. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP) at any time in the appeal process.

56.8(1) Supervisor review. As a first step, the appellant shall be advised that a supervisor review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by telephone or by letter of the decision to appeal. If the supervisor has been involved in decisions in the case to the extent that the supervisor cannot render a fair and impartial decision or if the supervisor is not available to complete the review in a timely manner, the appeal and case file shall be forwarded to the bureau chief for review. The appellant is not required to request supervisor review as a prerequisite for appeal before an IHO; however, if a supervisor review is requested, the following steps shall be observed:

a. Upon receipt of a request for supervisor review, the supervisor shall notify all appropriate parties of the date and nature of the appeal; examine case file documentation; discuss the issues and reasons for the decision with the immediate counselor and other counselors who may have been previously involved with the case or issue; and, if necessary, meet with any or all parties to discuss the dispute.

b. The supervisor shall have ten working days from receipt of the request for supervisor review to decide the issue and notify the appellant in writing. A copy of the supervisor's decision shall be sent to all appropriate parties.

c. If the supervisor's decision is adverse to the appellant, the copy of the written decision given to the appellant shall include further appeal procedures, including notification that the appellant has ten days from the date of the letter to file further appeal.

d. As an alternative to, but not to the exclusion of, filing for further appeal, the appellant may request mediation of the supervisor's decision or review by the chief of the rehabilitation services bureau.

56.8(2) Mediation. Regardless of whether a supervisor review is requested, an appellant may request resolution of the dispute through the mediation process. Mediation is also available if the appellant is dissatisfied with the supervisor's decision. If mediation is requested by the appellant and agreed to by the division, the mediation shall be held within 60 days of the request for mediation. The following steps shall be observed by the parties. Mediation shall be conducted by a qualified and impartial mediator, as defined in 34 CFR Section 361.5(c)(43), trained in effective mediation techniques and selected randomly by the division from a list maintained by the division.

a. The mediation shall be conducted in a timely manner at a location convenient to the parties.

b. Mediation shall not be used to delay the appellant's right to a hearing.

c. Mediation must be voluntary on the part of the appellant and the division.

d. Mediation is at no cost to the appellant.

e. All discussions and other communications that occur during the mediation process are confidential. Any offers of settlement made by either party during the mediation process are inadmissible if further appeal is sought by the appellant.

f. Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending decision of the mediator, unless so requested by the appellant.

56.8(3) Hearing before an impartial hearing officer. Regardless of whether the appellant has used supervisor review or mediation or both, if the appellant requests a hearing before an IHO, the following provisions apply:

EDUCATION DEPARTMENT[281](cont'd)

a. The division shall appoint the IHO from the pool of impartial hearing officers with whom the division has contracts. The IHO shall be assigned on a random basis or by agreement between the administrator of the division and the appellant.

b. The hearing shall be held within 20 days of the receipt of the appointment of the IHO. A written decision shall be rendered and given to the parties by the IHO within 30 days after completion of the hearing. Either or both of these time frames may be extended by mutual agreement of the parties or by a showing of good cause by one party.

c. The appellant shall be informed that the filing of an appeal confers consent for the release of the case file information to the IHO. The IHO shall have access to the case file or a copy thereof at any time following acceptance of the appointment to hear the case.

d. Within five working days after appointment, the IHO shall notify both parties in writing of the following:

- (1) The role of the IHO;
- (2) The IHO's understanding of the reasons for the appeal and the requested resolution;
- (3) The date, time, and place for the hearing, which shall be accessible and located as advantageously as possible for both parties but more so for the appellant;
- (4) The availability of the case file for review and copying in a vocational rehabilitation office prior to the hearing and how to arrange for the same;
- (5) That the hearing shall be closed to the public unless the appellant specifically requests an open hearing;
- (6) That the appellant may present evidence and information personally, may call witnesses, may be represented by counsel or other appropriate advocate at the appellant's expense, and may examine all witnesses and other relevant sources of information and evidence;
- (7) The availability to the appellant of the Iowa client assistance program (ICAP) for possible assistance;
- (8) Information about the amount of time it will take to complete the hearing process;
- (9) The possibility of reimbursement of necessary travel and related expenses; and
- (10) The availability of interpreter and reader services for appellants not proficient in the English language and those who are deaf or hard of hearing and the availability of transportation or attendant services for those appellants requiring such assistance.

e. Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending the decision of the IHO, unless so requested by the appellant.

f. The IHO shall provide a full written decision, including the findings of fact and grounds for the decision. The appellant or the division may request administrative review, and the IHO decision is submitted to the administrator of the division. Both parties may provide additional evidence not heard at the hearing for consideration for the administrative review. If no additional evidence is presented, the IHO decision stands. Unless either party chooses to seek judicial review pursuant to Iowa Code chapter 17A, the decision of the IHO is final. If judicial review is sought after administrative review, the IHO's decision shall be implemented pending the outcome of the judicial review.

281—56.9(259) Case record. The division has the authority to collect and maintain records on individuals under the Act, the state plan for vocational rehabilitation services, and the Social Security Act. Under this authority, the division maintains a record for each case. The case record contains pertinent case information as defined in division policy including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case, together with a justification of the closure and supporting documents. Case information is contained in the agency's case management system and a hard copy file. A combination of these data collections instruments constitutes the official case record. The hard copy files are retained for a minimum of four years, but there are instances when a case may be stored longer based on the services received.

281—56.10(259) Personally identifiable information. This rule describes the nature and extent of the personally identifiable information collected, maintained, and retrieved by the division by personal

EDUCATION DEPARTMENT[281](cont'd)

identifier in record systems as defined herein. The record systems maintained by the division include the following:

56.10(1) *Personnel records.* Personnel records contain information relating to initial application, job performance and evaluation, reprimands, grievances, notes from and reports of investigations of allegations related to improper employee behavior, and reports of hearings and outcomes of reprimands and grievances.

56.10(2) *Job candidate case records.* An individual file is maintained for each person who has been referred to or has applied for the services of the division, as described in rule 281—56.9(259). The file contains a variety of personal information about the job candidate, which is used in the establishment of eligibility and the provision of agency services. All information is personally identifiable and is confidential.

56.10(3) *Job candidate service record computer database.* The job candidate service record computer database contains personal data items about individual job candidates. Data identifying a job candidate is confidential. Data in the aggregate is not personally identifiable and thus is not confidential.

56.10(4) *Vendor purchase records.* Vendor purchase records are records of purchases of goods or services made for the benefit of job candidates. If a record contains the job candidate's name or other personal identifiers, the record is confidential. Lists of non-job candidate vendors, services purchased, and the costs of those services are not confidential when retrieved from a data processing system without personally identifiable information.

56.10(5) *Records and transcripts of hearings or client appeals.* Records and transcripts of hearings or client appeals contain personally identifiable information about a client's case, appeal from or for some action, and the decision that has been rendered. The personally identifiable information is confidential. Some of the information is maintained in an index provided for in Iowa Code section 17A.3(1) "d." Information is available after confidential personally identifiable information is deleted.

56.10(6) *All computer databases of client and applicant names and other identifiers.* The data processing system contains client status records organized by a variety of personal identifiers. These records are confidential as long as any personally identifiable information is present.

56.10(7) *All computer-generated reports that contain personally identifiable information.* The division may choose to draw or generate from a data processing system reports that contain information or an identifier which would allow the identification of an individual client or clients. This material is for internal division use only and is confidential.

56.10(8) *Personally identifiable information and acceptance of federal requirements.* Pursuant to Iowa Code section 259.9, the state of Iowa accepts the social security system rules for the disability determination program of the division. Failure to follow the provisions of the Act can result in the loss of federal funds. All personally identifiable information is confidential and may be released only with informed written consent, except as permitted by federal law. Any contrary provision in Iowa Code chapter 22 must be waived in order for the state to receive federal funds, services, and essential information for the administration of vocational rehabilitation services.

281—56.11(259) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the division other than record systems. These records are routinely available to the public, with the exception of parts of the records that contain confidential information. This rule generally describes the nature of the records, the type of information contained therein, and whether the records are confidential in whole or in part.

56.11(1) *Rule making.* Rule-making records, including public comments on proposed rules, are not confidential.

56.11(2) *Council and commission records.* Agendas, minutes, and materials presented to any council or commission required under the Act are available to the public with the exception of those records that are exempt from disclosure under Iowa Code section 21.5. Council and commission records are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319.

EDUCATION DEPARTMENT[281](cont'd)

56.11(3) Publications. News releases, annual reports, project reports, agency newsletters, and other publications are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319. Brochures describing various division programs are also available at local offices of the division.

56.11(4) Statistical reports. Periodic reports of statistical information on expenditures, numbers and types of case closures, and aggregate data on various client characteristics are compiled as needed for agency administration or as required by the federal funding source and are available to the public.

56.11(5) Grants. Records of persons receiving grants from division services are available through the main office of the division. Grant records contain information about grantees and may contain information about employees of a grantee that has been collected pursuant to federal requirements.

56.11(6) Published materials. The division uses many legal and technical publications, which may be inspected by the public upon request. Some of these materials may be protected by copyright law.

56.11(7) Policy manuals. Manuals containing the policies and procedures for programs administered by the division are available on the division website. Printed copies of all or some of the documents are available at the cost of production and handling. Requests should be addressed to Vocational Rehabilitation Services Division, 510 E. 12th Street, Des Moines, Iowa 50319.

56.11(8) Operating expense records. The division maintains records of the expense of operation of the division, including records related to office rent, employee travel expenses, and costs of supplies and postage, all of which are available to the public.

56.11(9) Training records. Lists of training programs, the persons approved to attend, and associated costs are maintained in these records, which are available to the public.

56.11(10) Other records. The division maintains records of various sources not previously mentioned in this rule that are exempted from disclosure by law.

281—56.12(259) State rehabilitation council.

56.12(1) Composition. The state rehabilitation council shall be composed of at least 15 members, appointed by the governor. A majority of the council members must be individuals with disabilities who are not employed by the division. The appointing authority must select members of the council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority must consider, to the greatest extent practicable, the extent to which minority populations are represented on the council. A majority of members must be individuals with disabilities who meet the requirements of 34 CFR Section 361.5(c)(28) and are not employed by the designated state unit. The council members shall include the following:

- a. At least one representative of the statewide independent living council, who must be the chairperson or other designee of the statewide independent living council;
- b. At least one representative of a parent training and information center established pursuant to Section 682(a) of the IDEA;
- c. At least one representative of the client assistance program established under 34 CFR Part 370, who must be the director or other individual recommended by the client assistance program;
- d. At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the council if employed by the division;
- e. At least one representative of community rehabilitation program service providers;
- f. Four representatives of business, industry, and labor;
- g. Representatives of disability groups that include a cross section of:
 - (1) Individuals with physical, cognitive, sensory, and mental disabilities; and
 - (2) Representatives of individuals with disabilities who have difficulty representing themselves or are unable, due to their disabilities, to represent themselves;
- h. Current or former applicants for, or recipients of, vocational rehabilitation services;
- i. At least one representative of the state educational agency responsible for the public education of students with disabilities who are eligible to receive services under the Act and Part B of the IDEA;
- j. At least one representative of the Iowa workforce development board; and

EDUCATION DEPARTMENT[281](cont'd)

k. The director of the division, who serves as an ex officio, nonvoting member of the council.

56.12(2) Chairperson. The chairperson must be selected by the members of the council from among the voting members of the council.

56.12(3) Terms. Each member of the council shall be appointed for a term of no more than three years. Each member of the council, other than the representative of the client assistance program, shall serve for no more than two consecutive full terms. A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed must be appointed for the remainder of the predecessor's term and may serve one additional three-year term. The terms of service of the members initially appointed must be for a varied number of years to ensure that terms expire on a staggered basis.

56.12(4) Vacancies. The governor shall fill a vacancy in council membership.

56.12(5) Functions. The council must, after consulting with the state workforce development board, perform the following functions:

a. Review, analyze, and advise the designated state unit regarding the designated state unit's responsibilities, particularly responsibilities related to:

- (1) Eligibility, including order of selection;
- (2) The extent, scope, and effectiveness of services provided; and
- (3) Functions performed by state agencies that affect or potentially affect the ability of individuals with disabilities in achieving employment outcomes;

b. In partnership with the designated state unit:

- (1) Develop, agree to, and review state goals and priorities in accordance with 34 CFR Section 361.29(c); and
- (2) Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Secretary of Education in accordance with 34 CFR Section 361.29(e);

c. Advise the designated state agency and the designated state unit regarding activities carried out under the IVRS program and assist in the preparation of the vocational rehabilitation services portion of the unified or combined state plan and amendments to the plan, applications, reports, needs assessments, and evaluations;

d. To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

- (1) The functions performed by the designated state agency;
- (2) The vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under the Act; and
- (3) The employment outcomes achieved by eligible individuals receiving services under 34 CFR Part 361, including the availability of health and other employment benefits in connection with those employment outcomes;

e. Prepare and submit to the governor and to the Secretary of Education no later than 90 days after the end of the federal fiscal year an annual report on the status of vocational rehabilitation programs operated within the state and make the report available to the public through appropriate modes of communication;

f. To avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the state, including the statewide independent living council, the advisory panel established under Section 612(a)(21) of the IDEA, the state developmental disabilities planning council, the state mental health planning council, and the state workforce development board, and with the activities of entities carrying out programs under the Assistive Technology Act of 1998;

g. Provide for coordination and the establishment of working relationships between the designated state agency and the statewide independent living council and centers for independent living within the state; and

h. Perform other comparable functions, consistent with the purpose of 34 CFR Part 361, as the council determines to be appropriate, that are comparable to the other functions performed by the council.

EDUCATION DEPARTMENT[281](cont'd)

56.12(6) Meetings. The council must convene at least four meetings a year. The meetings must be publicly announced, open, and accessible to the general public, including individuals with disabilities, unless there is a valid reason for an executive session. The council's meetings are subject to Iowa Code chapter 21, the open meetings law.

56.12(7) Forums or hearings. The council shall conduct forums or hearings, as appropriate, that are publicly announced, open, and accessible to the public, including individuals with disabilities.

56.12(8) Conflict of interest. No member of the council may cast a vote on any matter that would provide direct financial benefit to the member or the member's organization or otherwise give the appearance of a conflict of interest under state law.

56.12(9) Specific implementation clause. This rule is intended to implement 34 CFR Sections 361.16 and 361.17.

281—56.13(259) Iowa self-employment program: purpose. The division of vocational rehabilitation services works in collaboration with the department for the blind to administer the Iowa self-employment (ISE) program. The purpose of the program is to provide business development funds in the form of technical assistance (up to \$10,000) and financial assistance (up to \$10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa. Actual assistance is based on the requirements of the business, not to exceed the technical assistance and financial assistance limits.

281—56.14(259) Program requirements.

56.14(1) Clients of the division or the department for the blind may apply for the program.

56.14(2) All of the following conditions are also applicable:

a. The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.

b. Any equipment purchased for the applicant under this program that is no longer used by the applicant may be returned to the division, at the discretion of the division.

c. An applicant must demonstrate that the applicant has at least 51 percent ownership in a for-profit business that is actively owned, operated, and managed in Iowa.

d. Recommendation for and approval of financial assistance are based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

e. To receive financial support from the ISE program, the applicant's business plan feasibility study must result in self-sufficiency for the applicant as measured by earnings that equal or exceed 80 percent of substantial gainful activity.

f. The division cannot support the purchase of real estate or improvements to real estate.

g. The division cannot provide funding to be used as a cash infusion, for personal or business loan repayments, or for personal or business credit card debt.

h. The division may deny ISE assistance to an applicant who desires to start, expand, or acquire any of the following types of businesses:

(1) A hobby or similar activity that does not produce income at the level required for self-sufficiency;

(2) A business venture that is speculative in nature or considered high risk by the Better Business Bureau or similar organization;

(3) A business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not for profit;

(4) A business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements;

(5) A multitiered marketing business.

281—56.15(259) Application procedure.

EDUCATION DEPARTMENT[281](cont'd)

56.15(1) Application. Application materials for the program are available from the division and the department for the blind.

56.15(2) Submittal. Completed applications shall be submitted to a counselor employed by the division or the department for the blind.

56.15(3) Review. Applications will be forwarded to a business development specialist employed by the division for review. Approval of technical assistance funding is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan feasibility study will be required at the time of submission of the application. Approval of financial assistance funding is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

56.15(4) Funding. Before the division will provide funding for a small business, the job candidate must complete an in-depth study about the business the job candidate intends to start and must demonstrate that the business is feasible.

56.15(5) Appeal. If an application is denied, an applicant may appeal the decision to the division or the department for the blind. An appeal shall be consistent with the appeal processes of the division or the department for the blind.

281—56.16(259) Award of technical assistance funds.

56.16(1) Awards. Technical assistance funds may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the job candidate. Technical assistance funds may be awarded, based on need, up to a maximum of \$10,000 per applicant. Specialized technical assistance may include, but is not limited to, engineering, legal, accounting, and computer services and other consulting services that require specialized education and training.

56.16(2) Technical assistance. When technical assistance is needed for specialized services beyond the expertise of the business development specialist, technical assistance will be provided to assist the job candidate.

56.16(3) Technical assistance contracts. The division shall negotiate contracts with qualified consultants for delivery of services to an applicant if specialized services are deemed necessary. The contracts shall state hourly fees for services, the type of service to be provided, and a timeline for delivery of services. Authorization of payment will be made by a counselor employed by the division or the department for the blind based upon the negotiated rate as noted in the contract. A copy of each contract shall be filed with the division.

56.16(4) Consultants. Applicants will be provided a list of qualified business consultants by the business development specialist if specialized consultation services are necessary. The selection of the consultant(s) shall be the responsibility of the applicant.

56.16(5) Case management. The business development specialist or counselor will be available as needed for direct consultation to each applicant to ensure that quality services for business planning are provided in a timely manner.

281—56.17(259) Business plan feasibility study procedure. Information and materials are available from the division and the department for the blind. The job candidate shall submit the job candidate's business plan feasibility study to the job candidate's counselor if the study is completed at the time application is made or to the business development specialist if the business plan feasibility study is completed after application approval. The business development specialist is available to guide and assist in the analysis of the feasibility study.

281—56.18(259) Award of financial assistance funds.

56.18(1) Awards. Following the business development specialist's review of the business plan feasibility study, the business development specialist will issue a recommendation to support or not to support the proposed business venture. The counselor shall make a decision regarding approval or denial of the recommendation. If the plan is approved, the job candidate and counselor will review conditions of the financial assistance award and sign the appropriate forms of acknowledgment.

EDUCATION DEPARTMENT[281](cont'd)

a. Financial assistance funds may be awarded, based on need, up to \$10,000 after approval of a business plan feasibility study and evidence of business need or evidence of business progression. Before receiving financial assistance, the job candidate must demonstrate a dollar-for-dollar match based on the amount of funding needed. The match may be provided through approved existing business assets, cash, conventional financing or other approved sources.

b. Financial assistance funds may be approved for, but are not limited to, equipment, tools, printing of marketing materials, advertising, rent (up to six months), direct-mail postage, raw materials, inventory, insurance (up to six months), and other approved start-up, expansion, or acquisition costs.

56.18(2) *Award process.* The amount that may be recommended by the business development specialist and approved by the counselor shall be provided when there is a need. Recipients of financial assistance must demonstrate ongoing cooperation by providing the business development specialist with financial information needed to assess business progress before additional funds are expended.

56.18(3) *Financial assistance contracts.* Contracts for financial assistance funds shall be the responsibility of the division and will be consistent with the authorized use of Title I vocational rehabilitation funds and policy.

56.18(4) *Vendors.* Procurement of goods or services shall follow procedures established by the department of administrative services. The type of goods or services to be obtained, as well as a timeline for delivery of such, shall be stated by the vendor and agreed upon by the division. Authorization for goods or services shall be made by a counselor employed by the division or the department for the blind based upon the negotiated rate and terms as noted in the contract. A copy of each contract shall be filed with the division. Approval for payment of authorized goods or services shall be made by authorized division personnel.

These rules are intended to implement Iowa Code chapter 259; the federal Rehabilitation Act of 1973, as amended; and the federal Social Security Act (42 U.S.C. Section 301 et seq.), as amended.

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