



# IOWA ADMINISTRATIVE BULLETIN

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## 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.

JACK EWING, Administrative Code Editor  
Publications Editing Office (Administrative Code)

Telephone: (515)281-6048  
Telephone: (515)281-3355

Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)  
Email: [AdminCode@legis.iowa.gov](mailto:AdminCode@legis.iowa.gov)

### 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 2021

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
<b>**Dec. 23 '20**</b>	Jan. 13 '21	Feb. 2 '21	Feb. 17 '21	Feb. 19 '21	Mar. 10 '21	Apr. 14 '21	July 12 '21
<b>**Jan. 6**</b>	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	<b>**May 12**</b>	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	May 28	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	<b>**June 23**</b>	July 14	Aug. 18	Nov. 15
<b>**May 12**</b>	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 28	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
<b>**June 23**</b>	July 14	Aug. 3	Aug. 18	<b>**Aug. 18**</b>	Sep. 8	Oct. 13	Jan. 10 '22
July 9	July 28	Aug. 17	Sep. 1	Sep. 3	Sep. 22	Oct. 27	Jan. 24 '22
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '22
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '22
<b>**Aug. 18**</b>	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '22
Sep. 3	Sep. 22	Oct. 12	Oct. 27	<b>**Oct. 27**</b>	Nov. 17	Dec. 22	Mar. 21 '22
Sep. 17	Oct. 6	Oct. 26	Nov. 10	<b>**Nov. 10**</b>	Dec. 1	Jan. 5 '22	Apr. 4 '22
Oct. 1	Oct. 20	Nov. 9	Nov. 24	Nov. 26	Dec. 15	Jan. 19 '22	Apr. 18 '22
Oct. 15	Nov. 3	Nov. 23	Dec. 8	<b>**Dec. 8**</b>	Dec. 29	Feb. 2 '22	May 2 '22
<b>**Oct. 27**</b>	Nov. 17	Dec. 7	Dec. 22	<b>**Dec. 22**</b>	Jan. 12 '22	Feb. 16 '22	May 16 '22
<b>**Nov. 10**</b>	Dec. 1	Dec. 21	Jan. 5 '22	<b>**Jan. 5 '22**</b>	Jan. 26 '22	Mar. 2 '22	May 30 '22
Nov. 26	Dec. 15	Jan. 4 '22	Jan. 19 '22	Jan. 21 '22	Feb. 9 '22	Mar. 16 '22	June 13 '22
<b>**Dec. 8**</b>	Dec. 29	Jan. 18 '22	Feb. 2 '22	Feb. 4 '22	Feb. 23 '22	Mar. 30 '22	June 27 '22
<b>**Dec. 22**</b>	Jan. 12 '22	Feb. 1 '22	Feb. 16 '22	Feb. 18 '22	Mar. 9 '22	Apr. 13 '22	July 11 '22

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Friday, September 3, 2021	September 22, 2021
7	Friday, September 17, 2021	October 6, 2021
8	Friday, October 1, 2021	October 20, 2021

**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 14, 2021, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: [www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705](http://www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705). For more information, contact Jack Ewing at [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov). The following rules will be reviewed:

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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Voluntary diversity plans; open enrollment, 17.2 to 17.9, 17.11(4), 17.13, 17.14 <u>Filed</u> <b>ARC 5869C</b> .....	8/25/21
Senior year plus program—student eligibility, Internet-based coursework, review of proposals, 22.2(2)“b,” 22.28, 22.33(3)“c” <u>Filed</u> <b>ARC 5871C</b> .....	8/25/21
Private instruction, amendments to ch 31 <u>Filed</u> <b>ARC 5868C</b> .....	8/25/21
Terminology—deaf and hard-of-hearing persons, individuals who are blind or visually impaired, amendments to chs 31, 41, 56, 120 <u>Filed</u> <b>ARC 5870C</b> .....	8/25/21
Interscholastic athletic contest eligibility, 36.15 <u>Filed</u> <b>ARC 5867C</b> .....	8/25/21
Regional planning partnerships—funding, governance, 46.9(1)“a,” 46.10 <u>Filed</u> <b>ARC 5872C</b> .....	8/25/21
Supplementary weighting—English language learners, 60.2, 60.6(1)“a” <u>Notice</u> <b>ARC 5876C</b> .....	8/25/21
Definition of dyslexia, 62.6(3)“a” <u>Filed</u> <b>ARC 5873C</b> .....	8/25/21
Supplementary weighting plan for operational function sharing; teacher leader supplement; flexible student support program, 97.7, 98.25(3), 98.27 <u>Notice</u> <b>ARC 5877C</b> .....	8/25/21

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PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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Physician assistants—telemedicine, 327.9 Filed **ARC 5862C**..... 8/25/21  
Sign language interpreters and transliterators—licensure, 361.1 to 361.3, 361.9 Notice **ARC 5821C**..... 8/11/21

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COMMERCE DEPARTMENT[181]“umbrella”  
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 Waivers, amendments to ch 14 Filed ARC 5864C..... 8/25/21

**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.

Senator Waylon Brown  
 2415 Highway 218  
 Osage, Iowa 50461

Representative Jon Jacobsen  
 1113 Arbor Ridge Drive  
 Council Bluffs, Iowa 51503

Senator Jesse Green  
 2344 360th Street  
 Harcourt, Iowa 50544

Representative Megan Jones  
 4470 Highway 71  
 Sioux Rapids, Iowa 50585

Senator Robert Hogg  
 P.O. Box 1361  
 Cedar Rapids, Iowa 52406

Representative Amy Nielsen  
 North Liberty, Iowa

Senator Pam Jochum  
 2368 Jackson Street  
 Dubuque, Iowa 52001

Representative Rick Olson  
 3012 East 31st Court  
 Des Moines, Iowa 50317

Senator Zach Whiting  
 P.O. Box 385  
 Spirit Lake, Iowa 51360

Representative Mike Sexton  
 2202 Ogden Avenue  
 Rockwell City, Iowa 50579

Jack Ewing  
**Administrative Code Editor**  
 Capitol  
 Des Moines, Iowa 50319  
 Telephone: (515)281-6048  
 Fax: (515)281-8451  
 Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)

Michael Boal  
**Administrative Rules Coordinator**  
 Governor’s Ex Officio Representative  
 Capitol, Room 18  
 Des Moines, Iowa 50319  
 Telephone: (515)281-5211

**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Waivers; fees; application and renewal; engineering licensure by examination, 1.1(3), 1.4, 2.1, 3.1, 3.2 to 3.5, 4.1, 7.5(6)  
IAB 8/11/21 **ARC 5819C**

Board Office, Suite 350  
200 East Grand Ave.  
Des Moines, Iowa

August 31, 2021  
9 to 10 a.m.

**INSURANCE DIVISION[191]**

Surplus lines insurers, risk retention groups—penalty for failure to timely file, 21.5, 21.6  
IAB 8/25/21 **ARC 5874C**

Via conference call  
Contact Tracy Swalwell  
Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

September 15, 2021  
9 a.m.

Viatical and life settlements—annual report, late fee, 48.7  
IAB 8/25/21 **ARC 5875C**

Via conference call  
Contact Tracy Swalwell  
Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

September 15, 2021  
10 a.m.

**LABOR SERVICES DIVISION[875]**

Federal occupational safety and health standards—COVID-19 emergency temporary standard adopted by reference, 10.20  
IAB 8/11/21 **ARC 5846C**  
(See also **5847C**)

150 Des Moines St.  
Des Moines, Iowa

September 15, 2021  
9 a.m.  
(If requested)

**PHARMACY BOARD[657]**

Administration of vaccines by pharmacy technicians, 3.17  
IAB 8/11/21 **ARC 5831C**  
(See also **5820C**)

Health Professions Board Room, Suite H  
400 S.W. 8th St.  
Des Moines, Iowa

September 2, 2021  
10:30 to 11 a.m.

Security; delegation of dispensing; controlled substances, 6.7, 8.3(3)“e,” 10.14(2)“d,” 10.18, 10.19(1)  
IAB 8/11/21 **ARC 5834C**

Health Professions Board Room, Suite H  
400 S.W. 8th St.  
Des Moines, Iowa

September 2, 2021  
1 to 1:30 p.m.

Electronic data and automated systems—five-year review of rules, petitions, 21.6 to 21.9  
IAB 8/11/21 **ARC 5836C**

Health Professions Board Room, Suite H  
400 S.W. 8th St.  
Des Moines, Iowa

September 2, 2021  
2:30 to 3 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Sign language interpreters and transliterators—licensure, 361.1 to 361.3, 361.9  
IAB 8/11/21 **ARC 5821C**

Fifth Floor Board Conference Room 526  
Lucas State Office Bldg.  
Des Moines, Iowa  
Via videoconference:  
[us02web.zoom.us/j/88660497606?pwd=NUVITUFkdS9BTec2cE5GZXNuSThhdz09](https://us02web.zoom.us/j/88660497606?pwd=NUVITUFkdS9BTec2cE5GZXNuSThhdz09)

August 31, 2021  
10 to 11 a.m.



**REVENUE DEPARTMENT[701]**

Income tax—COVID-19 grant exclusion, qualifying programs, 40.86, 53.30, 59.32  
IAB 8/11/21 **ARC 5818C**  
(See also **5817C**)

Via video/conference call  
Contact Michael Mertens  
Email: [michael.mertens@iowa.gov](mailto:michael.mertens@iowa.gov)

August 31, 2021  
1 to 2 p.m.  
(If requested)

Appeals, taxpayer presentation, and other administrative procedures; GovConnectIowa, amendments to chs 7, 8, 38, 51, 57  
IAB 8/11/21 **ARC 5849C**

Via video/conference call  
Contact Alana Stamas  
Email: [alana.stamas@iowa.gov](mailto:alana.stamas@iowa.gov)

August 31, 2021  
9 to 10 a.m.  
(If requested)

Tax credit rate; school tuition organization tax credit; definition of “eligible student,” 42.32, 52.38  
IAB 8/11/21 **ARC 5822C**

Via video/conference call  
Contact Michael Mertens  
Email: [michael.mertens@iowa.gov](mailto:michael.mertens@iowa.gov)

August 31, 2021  
10 to 11 a.m.  
(If requested)

**TRANSPORTATION DEPARTMENT[761]**

Outdoor advertising devices; private directional signing, amend ch 117; rescind ch 120  
IAB 8/11/21 **ARC 5859C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

September 2, 2021  
1 p.m.  
(If requested)

Ignition interlock devices, amendments to chs 615, 620  
IAB 8/11/21 **ARC 5858C**

Via conference call  
Contact Tracy George  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

September 2, 2021  
9 a.m.  
(If requested)

**UTILITIES DIVISION[199]**

Civil penalty for permit violation; tile repairs; assessment exemptions; definition of “competitive local exchange service provider,” 8.1(5), 9.5(4)“d”(6), 17.2(9), 38.1(2)  
IAB 7/28/21 **ARC 5813C**

Board Hearing Room  
1375 E. Court Ave.  
Des Moines, Iowa

September 14, 2021  
11:30 a.m. to 1:30 p.m.

**VETERINARY MEDICINE BOARD[811]**

Veterinarian/client/patient relationships (VCPR)—physical examination, 12.1(1)“b”  
IAB 8/11/21 **ARC 5848C**

Second Floor Boardroom  
Wallace State Office Bldg.  
Des Moines, Iowa

September 1, 2021  
10 to 11 a.m.

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.

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 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]  
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   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]  
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   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
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    Child Advocacy Board[489]  
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    State Public Defender[493]  
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IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
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**ARC 5880C****CREDIT UNION DIVISION[189]****Notice of Intended Action****Proposing rule making related to education requirements  
and providing an opportunity for public comment**

The Credit Union Division hereby proposes to amend Chapter 2, “Organization, Chartering and Field of Membership of a Credit Union,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 533.104 and 533.107.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 533.113A, 533.205(3)“c,” and 533.205(3)“g.”

*Purpose and Summary*

The proposed amendment codifies the Division’s expectations regarding state credit union boards of directors’ education requirements and is comparable to requirements for federally chartered credit unions’ boards of directors.

*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 Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

*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 Division no later than 4:30 p.m. on September 14, 2021. Comments should be directed to:

Jessica Pollmeier  
Credit Union Division  
200 East Grand Avenue, Suite 370  
Des Moines, Iowa 50309-1827  
Fax: 515.725.0519  
Email: [jessica.pollmeier@iowa.gov](mailto:jessica.pollmeier@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

## CREDIT UNION DIVISION[189](cont'd)

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 rule 189—2.9(533) as follows:

**189—2.9(533) Board of directors meeting requirements.**

**2.9(1)** The board of directors shall hold at least 12 regular meetings each calendar year. No more than one regular meeting shall be held in one calendar month.

**2.9(2)** A quorum shall be required to undertake any credit union business and required at any meeting of the board of directors called by the superintendent pursuant to Iowa Code chapter 533.

**2.9(3)** A director or committee member must be able to read and understand the credit union's balance sheet and income statement, have a working knowledge of basic finance and generally accepted accounting principles (GAAP) utilized in the credit union, be able to understand the risk found in depository institutions and credit union board governance, and understand the internal control structures of the credit union. If a director or committee member does not have the requisite skills when elected or appointed, the director or committee member must obtain these skills in a timely manner, not to exceed 12 months.

This rule is intended to implement Iowa Code sections ~~533.205(3)“e”~~ 533.205(3)“c,” 533.205(3)“g,” and 533.113A.

**ARC 5879C**

**CREDIT UNION DIVISION[189]**

**Notice of Intended Action**

**Proposing rule making related to secondary capital agreements  
and providing an opportunity for public comment**

The Credit Union Division hereby proposes to amend Chapter 7, “Low-Income Designated Credit Union,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 533.104 and 533.107.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 533.301(1).

*Purpose and Summary*

The proposed amendment is intended to articulate requirements for credit unions to notify the Division prior to funding secondary capital agreements.

CREDIT UNION DIVISION[189](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 Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

*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 Division no later than 4:30 p.m. on September 14, 2021. Comments should be directed to:

Jessica Pollmeier  
Credit Union Division  
200 East Grand Avenue, Suite 370  
Des Moines, Iowa 50309-1827  
Fax: 515.725.0519  
Email: [jessica.pollmeier@iowa.gov](mailto:jessica.pollmeier@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:

Adopt the following **new** rule 189—7.7(533):

**189—7.7(533) Funding secondary capital.** At least 30 days prior to funding any secondary capital agreement, a credit union shall notify the superintendent and provide the secondary capital account contract agreement, accurately disclosing the terms and conditions of the agreement, and due diligence completed by the credit union.

**ARC 5882C****CREDIT UNION DIVISION[189]****Notice of Intended Action****Proposing rule making related to membership voting  
and providing an opportunity for public comment**

The Credit Union Division hereby proposes to amend Chapter 12, “Votes of the Membership,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 533.201 and 533.203.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 533.201 and 533.203.

*Purpose and Summary*

The proposed amendments are intended to simplify and update the technical requirements for substantive votes of the credit union membership. The amendments consolidate technical rules into a comprehensive voting system and articulate substantive components in individual subrules.

*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 Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

*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 Division no later than 4:30 p.m. on September 14, 2021. Comments should be directed to:

Jessica Pollmeier  
Credit Union Division  
200 East Grand Avenue, Suite 370  
Des Moines, Iowa 50309-1827  
Fax: 515.725.0519  
Email: [jessica.pollmeier@iowa.gov](mailto:jessica.pollmeier@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

## CREDIT UNION DIVISION[189](cont'd)

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 189—12.1(533) as follows:

**189—12.1(533) Voting requirements and eligibility.**

**12.1(1) to 12.1(6)** No change.

**12.1(7)** The quorum for membership votes shall be no less than twice the members of the board of directors, plus two, as recorded in the credit union's bylaws.

**12.1(8)** Member voting shall be conducted in accordance with rules 189—12.2(533) and 189—12.3(533) and any specific voting requirements established for individual substantive voting.

ITEM 2. Renumber rules **189—12.2(533)** to **189—12.12(533)** as **189—12.4(533)** to **189—12.14(533)**.

ITEM 3. Adopt the following **new** rule 189—12.2(533):

**189—12.2(533) Voting procedures.**

**12.2(1)** *Vote by board of directors.* The board of directors shall, by majority vote, select the method of voting for any vote of the membership, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote.

**12.2(2)** *Election committee.* The board shall appoint an election committee of not fewer than five members, none of whom may have a vested interest in the substantive vote and no more than two of whom may be from the board of directors.

*a.* It is the duty of the election committee to oversee balloting, to tabulate votes or cause the votes to be tabulated by an independent vendor, to ensure that each member shall only be allowed to vote once, and to ensure that multiple ballots submitted by the same member are disqualified.

*b.* Prior to any meeting where voting is also scheduled to take place, the election committee shall tally all properly cast ballots and take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, and shall publish the results in accordance with rule 189—12.12(533). The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the vote at the meeting of the membership.

*c.* No member or agent of the election committee shall reveal the manner in which any member voted.

*d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

*e.* For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

*f.* For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form; to place the verified identification form and the sealed ballot envelope in a place of



## CREDIT UNION DIVISION[189](cont'd)

safekeeping pending the count of the vote; and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.2(3) Notice of balloting.** At least 20 days but not more than 60 days prior to the closing date of balloting, the secretary shall set forth the substantive vote in its entirety, including the reasoning of the board of directors or the nominees for election, in a notice to all members eligible to vote.

*a.* The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of ballots cast, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for submitting the vote.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and shall be received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board but that members will only be allowed to vote once.

*b.* The notice must be sent to each member through an independent mailing to members, statements, or newsletters, and posted on the credit union's website, or on signs posted in the credit union.

*c.* The notice may be sent electronically to those members who have opted to receive notices electronically.

ITEM 4. Adopt the following new rule 189—12.3(533):

**189—12.3(533) Voting methods and requirements.**

**12.3(1) Mailed ballots.** If the board of directors, by majority vote, has elected to conduct the election in whole or in part by mailed ballot, then the secretary shall send with the notice of balloting a mail-in ballot.

*a.* The secretary shall include the following materials for balloting:

(1) One ballot, clearly identified as the ballot meeting the specific requirements of the topic of voting.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed by the voter to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

*b.* If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions for the electronic voting procedure.

## CREDIT UNION DIVISION[189](cont'd)

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If voting will also occur at the membership meeting, the ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting. If voting is not scheduled to occur at a meeting of the membership, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the membership meeting.

**12.3(2) *Electronic voting.*** The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically or written ballots in the credit union in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at the meeting of the membership, pursuant to the requirements of this rule.

**12.3(3) *Instructions for electronic voting.*** If the board of directors, by majority vote, has elected to conduct the election in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting.

a. The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions for electronic voting required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee. If voting will also occur at the membership meeting, then the results shall be verified at the meeting.

d. If voting is not scheduled to occur at the membership meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the membership meeting.

**12.3(4) *Absentee ballots.*** If the board of directors, by majority vote, has elected to conduct the election other than mail-in only, the board may also, by majority vote, utilize absentee ballots when no additional nominations will be taken from the floor at a meeting of the members and when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The notice of balloting shall include a notification that a member may vote by absentee ballot if the member submits a written or electronic request for an absentee ballot, or requests a ballot in-person at a credit union branch, and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at the meeting, or by the close of balloting for each voting method if a subsequent in-person vote is not held.

b. Upon request, the balloting materials specified in paragraph 12.3(1)“a” shall be provided to each member who is eligible to vote and who has submitted an in-person, written, or electronic request for an absentee ballot.

c. Absentee ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting of the membership or tallies shall be added to remaining vote tallies if no meeting of the membership is held.

**12.3(5) *In-person voting at meeting.*** If the board of directors has elected, upon a favorable vote of the majority, to conduct a vote in whole or in part at a meeting of members, printed ballots shall be given at the meeting to those members who have not voted by another method.

a. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

## CREDIT UNION DIVISION[189](cont'd)

b. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

ITEM 5. Amend renumbered rule 189—12.4(533) as follows:

**189—12.4(533) ~~Nomination procedures~~ Specific voting requirements for the board of directors elections.**

**12.4(1) *Nominating committee.*** If the board has determined that voting for directors at the annual meeting will be conducted ~~via one or more methods~~ other than only in-person voting at the meeting, then at least 120 days before each annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members.

a. It is the duty of the nominating committee to nominate at least one member for each vacancy, including for any unexpired-term vacancy, for which elections are being held and to obtain a signed certificate from the members nominated that they ~~are agreeable~~ agree to the placing of their names in nomination, will accept office if elected, and will cooperate with any background check required by the credit union.

b. The nominating committee shall file its nominations with the secretary of the credit union board of directors at least 90 days before the annual meeting.

c. Nominations made by the nominating committee are not subject to the petition process in subrule ~~12.2(2)~~ 12.4(2).

**12.4(2) *Nominations by petition.*** If the board of directors determines pursuant to subrule ~~12.3(1)~~ 12.2(1) that voting for directors will be conducted in whole or in part by mail or electronic ballots prior to the annual meeting, then nominations shall not be taken from the floor at the annual meeting and the nominating committee shall accept additional nominations by petition.

a. At least 90 days before the annual meeting, the secretary shall notify in writing all members eligible to vote that nominations for vacancies may be made by petition signed by at least 1 percent of the members, subject to a minimum of 20 members and a maximum of 200 members.

(1) The notice shall indicate that there will be no nominations from the floor at the annual meeting.

(2) The notice shall include a list of the nominating committee's nominees and a brief statement of the nominees' qualifications and biographical data in a form approved by the board of directors. ~~Each nominee by petition shall submit a similar statement of qualifications and biographical data with the petition.~~

(3) Nominations by petition shall be accompanied by a statement of qualifications and biographical data, as well as a signed certificate from the nominee stating that the nominee ~~is agreeable~~ agrees to nomination, will serve if elected to office, ~~and~~ will cooperate with any background check required by the credit union, and understands and agrees to the board of director oath of office.

(4) ~~The period for receiving nominations by petition shall extend~~ Nominations by petition shall be accepted for at least 30 days from the date that the notice is sent. Petitions ~~shall~~ must be filed with the secretary of the credit union board of directors at least 60 days before the annual meeting.

(5) Nominations by petition which are received after the closing date, or which are otherwise incomplete ~~because they do not include a statement of qualifications and biographical data, or certification agreeing to the nomination and indicating a willingness to serve~~, shall be disqualified by the board secretary. The secretary shall immediately notify the nominee of the disqualification and of the reason. A petition for a disqualified nominee may be refiled provided that all requirements, including the closing date for receiving nominations by petition, are met.

b. The notice may be included with the notice of annual meeting, in statements or newsletters, on the credit union website, or on signs posted in ~~the~~ each credit union office.

c. The secretary may use electronic mail to notify members who have opted to receive notices or statements electronically.

## CREDIT UNION DIVISION[189](cont'd)

**12.4(3) Posting of nominations.** The secretary shall ensure that all nominations are posted in a conspicuous place in each credit union office and interactive teller machine (ITM) terminal at least 30 days but no more than 60 days before the annual meeting.

**12.4(4) ~~Alternative schedule~~ Nominations from the floor—voting only in person at annual meeting.** If the board of directors determines that voting at the annual meeting shall only be conducted in person, and nominations will be taken from the floor at the annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members, at least 60 days before the annual meeting. The nominating committee shall not solicit additional nominations by petition pursuant to ~~subrule 12.2(2)~~ 12.4(2). Nominations shall be posted according to ~~subrule 12.2(3)~~ 12.4(3).

*a.* If no electronic, mail-in, or absentee balloting has occurred and nominations will be taken from the floor, then at the annual meeting, printed ballots shall be distributed to those in attendance after additional nominations are taken from the floor or the ballots shall have blank spaces to write in additional names. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

*b.* After members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee.

*c.* The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.

**12.4(5) Nomination notification by newsletter.** The board of directors may determine that the entire credit union membership will be notified via newsletter or other written communication of the opportunity to nominate an individual for the board of directors.

*a.* If the membership is notified of nominations via newsletter or other written communication at least 90 days before the annual meeting, the secretary shall:

(1) Send the newsletter or other written communication to the entire membership via U.S. mail or electronic mail to members who have opted to receive notices or statements electronically and indicate a physical location or email address where nominations can be sent;

(2) Indicate in the notice that there will be no nominations from the floor at the annual meeting; and

(3) Indicate in the notice that the nominating committee will vet the candidates to confirm each candidate is eligible and present a list of the eligible candidates prior to the voting period.

*b.* If the board of directors utilizes the nomination notification by newsletter pursuant to this rule, then nominations shall not be taken from the floor at the annual meeting as set forth in ~~subrule 12.3(7)~~ 12.4(4) and nomination notifications made pursuant to this rule are not subject to the nomination-by-petition process in ~~subrule 12.2(2)~~ 12.4(2).

ITEM 6. Amend renumbered rule 189—12.5(533) as follows:

**189—12.5(533) ~~Election~~ Specific election procedures for the board of directors elections.**

**12.5(1)** No change.

**12.5(2) ~~Election committee.~~** The board of directors shall appoint an election committee of not fewer than five members, none of whom may be a current director or nominee for office or an immediate family member of any director or nominee for office.

*a.* ~~It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

*b.* ~~The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the election at the annual meeting.~~

*c.* ~~No member or agent of the election committee shall reveal the manner in which any member voted.~~

*d.* ~~If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.~~

## CREDIT UNION DIVISION[189](cont'd)

~~e.—For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

~~f.—For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.~~

~~**12.5(3) 12.5(2) Notice of balloting.** At least 20 days but not more than 30 days prior to the close of balloting, the secretary shall produce a notice of balloting. In addition to the requirements in subrule 12.2(3), the notice of balloting for board of directors elections shall include the following:~~

~~a. to c. No change.~~

~~d.—The notice shall set forth the rules and procedures for voting and the date of the close of balloting for ballots submitted other than in person during voting at the annual meeting.~~

~~(1) The close of balloting for ballots submitted other than in person during voting at the annual meeting shall be at least two days prior to any meeting where voting will occur.~~

~~(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.~~

~~(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at the annual meeting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.~~

~~(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.~~

~~(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.~~

~~e.—The notice may be included with notice of the annual meeting and in statements or newsletters, on the credit union website, or on signs posted in the credit union.~~

~~f.—Electronic mail may be used to provide the notice of balloting to members who have opted to receive notices or statements electronically.~~

~~**12.5(4) Mailed ballots.** If the board of directors, by majority vote, has elected to conduct the election in whole or in part by mailed ballot, then the secretary shall send with the notice of balloting a mail-in ballot.~~

~~a.—The secretary shall include the following materials for balloting:~~

~~(1) One ballot, clearly identified as the ballot, on which the names of the candidates for the board of directors are printed in random order.~~

~~(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.~~

~~(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.~~

~~(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.~~

~~b.—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions for the electronic voting procedure.~~

~~e.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

## CREDIT UNION DIVISION[189](cont'd)

~~d.—If voting will also occur at the annual meeting, the ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting. If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the annual meeting.~~

~~**12.5(5) Electronic voting.** If the board of directors, by majority vote, has elected to conduct the election in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting.~~

~~a.—The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b.—For those members who have opted to receive notices or statements electronically, the instructions for electronic voting required under this subrule may be communicated electronically.~~

~~c.—The electronic voting shall be tallied by the election committee. If voting will also occur at the annual meeting, then the results shall be verified at the meeting.~~

~~d.—If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the annual meeting.~~

~~**12.5(6) Absentee ballots—subsequent in-person vote at meeting.** If the board of directors, by majority vote, has elected to conduct the election only in person at the annual meeting, the board may also, by majority vote, utilize absentee ballots when no additional nominations will be taken from the floor at the annual meeting and when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a.—The secretary shall include with the notice of annual meeting a notification that members may vote either in person at the annual meeting or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at the annual meeting.~~

~~b.—The secretary shall mail the balloting materials specified in paragraph 12.3(4) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~**12.5(7) Nominations from the floor—subsequent in-person vote at meeting.** If the board of directors did not elect to accept additional nominations by petition, then additional nominations shall be taken from the floor at the annual meeting, provided that no electronic, mail-in, or absentee balloting has occurred.~~

~~a.—At the annual meeting, printed ballots shall be distributed to those in attendance after additional nominations are taken from the floor, or the ballots shall also have blank spaces to write in the additional names. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.~~

~~b.—After members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee.~~

~~c.—The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.~~

## CREDIT UNION DIVISION[189](cont'd)

~~12.5(8) *In-person vote at meeting.* If the board of directors elected to accept additional nominations by petition, and if the board of directors also chose to conduct the vote in whole or in part by in-person voting at the annual meeting, printed ballots shall be distributed to those in attendance at the annual meeting who have not voted.~~

~~a.—The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.~~

~~b.—After those members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.~~

~~c.—The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.~~

~~12.5(9) 12.5(3) *Preservation of ballots.* Ballots shall be preserved according to the provisions of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.~~

~~12.5(10) 12.5(4) *Publication of results.* Results of the election shall be reported to members according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date the results are certified to the board by the election committee.~~

ITEM 7. Amend renumbered rule 189—12.6(533) as follows:

**189—12.6(533) Vote to amend bylaws or articles of incorporation.**

**12.6(1) and 12.6(2)** No change.

**12.6(3) *Membership vote.*** The board of directors may vote to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

**12.6(4) *Election committee.*** If the board of directors votes to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201, then the board shall appoint an election committee of not fewer than five members, none of whom may be directors.

~~a.—It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~b.—The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the vote at the annual meeting.~~

~~c.—No member or agent of the election committee shall reveal the manner in which any member voted.~~

~~d.—If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.201.~~

~~e.—For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

~~f.—For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification~~

## CREDIT UNION DIVISION[189](cont'd)

form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

~~12.6(5) Notice of balloting.~~ The secretary shall set forth the proposed amendment in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for recommending the amendment.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed amendment through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*b.*—The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.

*c.*—The notice may be sent electronically to those members who have opted to receive notices electronically.

~~12.6(6) Mailed ballots.~~ If the board of directors has elected, upon a favorable vote of the majority, to conduct a vote on the proposed amendment in whole or in part via mailed ballot:

*a.*—The secretary shall include the following materials for balloting with the notice of balloting:

(1) One ballot, clearly identified as the ballot, on which the proposed amendment is printed in full.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

*b.*—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

*c.*—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

*d.*—If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If voting is not scheduled to occur at a meeting, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.



## CREDIT UNION DIVISION[189](cont'd)

~~12.6(7) *Electronic voting.* If the board of directors, by majority vote, has elected to conduct the vote in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting to each member eligible to vote.~~

~~a.—The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b.—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c.—The electronic voting shall be tallied by the election committee. If voting will also occur at a meeting, then the results shall be verified at the meeting.~~

~~d.—If voting is not scheduled to occur at a meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.6(8) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a.—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~b.—The secretary shall mail the balloting materials specified in paragraph 12.4(6) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.6(9) *In-person voting at meeting.* If the board of directors has elected, upon a favorable vote of the majority, to present the proposed amendment for a vote in whole or in part at a meeting of members, printed ballots shall be given at the meeting to those members who have not voted by another method.~~

~~a.—The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.~~

~~b.—After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.~~

~~c.—The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.6(10) 12.6(5) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date of final approval or denial of the amendment by the superintendent.~~

~~12.6(11) 12.6(6) *Submission to superintendent.* The board of directors shall submit the amendment to the superintendent for approval before the amendment becomes effective. The board shall submit the following documentation in support of its request for approval:~~

~~a. to d. No change.~~

## CREDIT UNION DIVISION[189](cont'd)

~~12.6(12)~~ **12.6(7)** *Publication of results.* The board shall inform the membership of the results of the vote and whether the amendment received the approval of the superintendent, according to the provisions of ~~189—12.10(533)~~ rule 189—12.12(533). The 60-day posting period required by ~~subrule 12.10(1)~~ 12.12(1) shall run from the date of final approval or denial of the amendment by the superintendent.

ITEM 8. Amend renumbered rule ~~189—12.7(533)~~ as follows:

**189—12.7(533) ~~Vote~~ Specific voting requirements to modify, amend, or reverse an act of the board of directors or to instruct the board to take action.**

**12.7(1)** No change.

**12.7(2)** *Subsequent vote of membership.* In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, reversal, or instruction to the members for a vote.

*a.* After a majority of members present at a meeting have voted to modify, amend, or reverse any act of the board of directors, or to instruct the board to take action not inconsistent with the articles, the bylaws, or the Iowa credit union Act or administrative rules, the board of directors shall meet to determine the method of voting for the membership vote and shall, within 60 days of the date of the meeting where the majority of members voted to modify, amend, or reverse an act of the board of directors, or to instruct the board to take action, submit the issue to all eligible voters of record as of the date of the meeting.

*b.* The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

*c.* If a simple majority of all eligible ~~members vote~~ votes cast are in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting shall be considered affirmed, and the board of directors shall take immediate action to comply with the directions of the membership. However, if a simple majority of all ~~eligible members failed to vote~~ votes cast are not in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting is not affirmed, and the prior action of the board of directors shall be considered upheld.

~~**12.7(3)** *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.~~

~~*a.* It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~*b.* The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.~~

~~*c.* No member or agent of the election committee shall reveal the manner in which any member voted.~~

~~*d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.~~

~~*e.* For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

## CREDIT UNION DIVISION[189](cont'd)

*f.*—For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.7(4) Notice of balloting.** The secretary shall set forth the proposed amendment, modification, reversal or instruction to take action in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for its action or inaction, as well as a summary of the reasons, if known, for the vote to amend, modify, or reverse the board action, or to instruct the board to take action.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*b.*—The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.

*c.*—The notice may be sent electronically to those members who have opted to receive notices electronically.

**12.7(5) Mailed ballots.** If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

*a.*—The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot, on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

*b.*—If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

## CREDIT UNION DIVISION[189](cont'd)

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

~~d.—If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.7(6) *Electronic voting.* If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:~~

~~a.—The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b.—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c.—The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.7(7) *Absentee ballots—subsequent in-person vote at meeting.* If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a.—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~b.—The secretary shall mail the balloting materials specified in paragraph 12.5(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.7(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

## CREDIT UNION DIVISION[189](cont'd)

~~12.7(9)~~ **12.7(3)** *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule ~~12.9(2)~~ 12.11(2) shall run from the date the results are certified to the board by the election committee.

~~12.7(10)~~ **12.7(4)** *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of ~~189—12.10(533)~~ rule 189—12.12(533). The 60-day posting period required by subrule ~~12.10(1)~~ 12.12(1) shall run from the date the results are certified to the board by the election committee.

ITEM 9. Amend renumbered rule 189—12.8(533) as follows:

**189—12.8(533) ~~Vote on~~ Specific voting requirements regarding merger.**

**12.8(1)** *Vote by board of directors.* A state credit union that seeks to merge with another credit union shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors.

**12.8(2)** *Subsequent vote of the membership.* Following a vote by the board of directors to merge with another credit union, the board shall submit the merger to a vote of the membership of the merging credit union unless the superintendent finds that an emergency exists justifying the waiver of the membership vote.

*a.* The board of the continuing credit union shall, within ~~three~~ ten days of voting to merge, notify the superintendent of the merger vote.

*b.* After the superintendent has given preliminary approval to the merger, the board of the merging credit union shall submit the issue within ~~30~~ 60 days to all eligible voters of record as of the date of the vote by the board of directors. ~~The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.~~

*c.* The approval of the merger is not final until approved by the superintendent after the membership vote of the merging credit union.

~~**12.8(3)** *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.~~

~~*a.* It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~*b.* The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the vote at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.~~

~~*c.* No member or agent of the election committee shall reveal the manner in which any member voted.~~

~~*d.* If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.~~

~~*e.* For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

~~*f.* For mail in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification~~

## CREDIT UNION DIVISION[189](cont'd)

form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

~~12.8(4) Notice of balloting.~~ The secretary shall set forth the proposed merger in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

~~a.~~ The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for voting to merge.

~~(1)~~ The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

~~(2)~~ Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

~~(3)~~ Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting in order to be considered valid.

~~(4)~~ Ballots hand delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

~~(5)~~ If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed merger through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

~~b.~~ The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.

~~c.~~ The notice may be sent electronically to those members who have opted to receive notices electronically.

~~12.8(5) Mailed ballots.~~ If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

~~a.~~ The secretary shall include the following balloting materials with the notice of balloting:

~~(1)~~ One ballot, clearly identified as the ballot.

~~(2)~~ One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

~~(3)~~ One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

~~(4)~~ One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

~~b.~~ If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

~~c.~~ Ballots mailed to the election committee or hand delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

~~d.~~ If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

~~12.8(6) Electronic voting.~~ If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

## CREDIT UNION DIVISION[189](cont'd)

~~a.—The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b.—For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c.—The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.8(7) Absentee ballots—subsequent in-person vote at meeting.~~ If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

~~a.—The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~b.—The secretary shall mail the balloting materials specified in paragraph 12.6(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.8(8) In-person vote at meeting.~~ If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

~~12.8(9) 12.8(3) Preservation of ballots.~~ Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.

~~12.8(10) 12.8(4) Submission to superintendent.~~ The board of directors shall submit the merger to the superintendent for approval before the merger becomes effective. The board shall submit the following documentation in support of its request for approval:

~~a. to d. No change.~~

~~12.8(11) 12.8(5) Publication of results.~~ The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date the results are certified to the board by the election committee.

## CREDIT UNION DIVISION[189](cont'd)

ITEM 10. Amend renumbered rule 189—12.9(533) as follows:

**189—12.9(533) ~~Vote on~~ Specific voting requirements for voluntary dissolution.**

**12.9(1) *Vote of board of directors.*** A state credit union that seeks to dissolve shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors. Within ~~three~~ ten days of the vote and prior to sending notice of the membership vote, the board of directors shall notify the superintendent of the intention to dissolve.

**12.9(2) *Subsequent vote of the membership.*** Following a vote by the board of directors to dissolve, the board shall submit the dissolution to a vote of the membership.

*a.* The board shall submit the issue to the membership within ~~30~~ 60 days of voting to dissolve.

*b. to d.* No change.

**12.9(3) *Election committee.*** The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

*a.* ~~It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

*b.* ~~The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.~~

*c.* ~~No member or agent of the election committee shall reveal the manner in which any member voted.~~

*d.* ~~If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.~~

*e.* ~~For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.~~

*f.* ~~For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.~~

**12.9(4) *Notice of balloting.*** The secretary shall set forth the proposed dissolution in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.* ~~The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for voting for the voluntary dissolution.~~

~~(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.~~

~~(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~

~~(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~



## CREDIT UNION DIVISION[189](cont'd)

~~(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.~~

~~(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed dissolution through any of the methods of voting designated by the board, but that members will only be allowed to vote once.~~

~~b. The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.~~

~~c. The notice may be sent electronically to those members who have opted to receive notices electronically.~~

~~12.9(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:~~

~~a. The secretary shall include the following balloting materials with the notice of balloting:~~

~~(1) One ballot, clearly identified as the ballot.~~

~~(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.~~

~~(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.~~

~~(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.~~

~~b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.~~

~~c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

~~d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.9(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:~~

~~a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~12.9(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

## CREDIT UNION DIVISION[189](cont'd)

~~b. The secretary shall mail the balloting materials specified in paragraph 12.7(5) "a" to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.9(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.9(9) 12.9(3) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.~~

~~12.9(10) 12.9(4) *Submission to superintendent.* The board of directors shall submit the dissolution to the superintendent for review before the dissolution becomes effective. The state credit union shall cease existence when the superintendent issues a certificate of dissolution. The board shall submit the following documentation:~~

~~a. to e. No change.~~

~~12.9(11) 12.9(5) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date the results are certified to the board by the election committee.~~

ITEM 11. Amend renumbered rule 189—12.10(533) as follows:

**189—12.10(533) Vote Specific voting requirements to remove or reinstate an officer, director, or member of the auditing committee.**

**12.10(1) *Auditing committee vote.*** If the auditing committee deems the action to be necessary to the proper conduct of the state credit union, the auditing committee may suspend, by majority vote, any officer, director, or member of the auditing committee.

**12.10(2) *Subsequent vote of membership.*** Following a vote by the auditing committee to suspend an officer, director, or member of the auditing committee, the suspension shall be put to a vote of the membership.

a. The members may vote to sustain the suspension and remove the officer, director, or auditing committee member permanently or may vote to reinstate the officer, director, or auditing committee member.

b. The board of directors shall meet to determine the method of voting for the membership vote and shall, within 30 days of the date of the auditing committee's vote, submit the issue to all eligible voters of record as of the date of the auditing committee's meeting. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. ~~The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to~~

## CREDIT UNION DIVISION[189](cont'd)

an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

**12.10(3) Election committee.** The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors and none of whom may be from the auditing committee.

*a.*— It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

*b.*— The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

*c.*— No member or agent of the election committee shall reveal the manner in which any member voted.

*d.*— If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

*e.*— For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

*f.*— For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.10(4) Notice of balloting.** The secretary shall set forth the suspension and proposed removal in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*— The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the auditing committee's reasons for voting to suspend the officer, director, or member of the auditing committee, as well as a summary of the reasons, if known, that the officer, director, or member of the auditing committee believes that the officer, director, or member should be reinstated.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

## CREDIT UNION DIVISION[189](cont'd)

~~(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed removal through any of the methods of voting designated by the board, but that members will only be allowed to vote once.~~

~~b. The notice may be included in statements or newsletters, on the credit union website, or on signs posted in the credit union.~~

~~c. The notice may be sent electronically to those members who have opted to receive notices electronically.~~

~~**12.10(5) Mailed ballots.** If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:~~

~~a. The secretary shall include the following balloting materials with the notice of balloting:~~

~~(1) One ballot, clearly identified as the ballot.~~

~~(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.~~

~~(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.~~

~~(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.~~

~~b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.~~

~~c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

~~d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~**12.10(6) Electronic voting.** If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:~~

~~a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~**12.10(7) Absentee ballots—subsequent in-person vote at meeting.** If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~b. The secretary shall mail the balloting materials specified in paragraph 12.8(5) "a" to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

## CREDIT UNION DIVISION[189](cont'd)

~~c.—Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d.—At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.10(8) *In-person vote at meeting.* If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.10(9) 12.10(4) *Preservation of ballots.* Ballots shall be preserved according to the requirements of 189—12.9(533) rule 189—12.11(533). The 60-day retention period required by subrule 12.9(2) 12.11(2) shall run from the date the results are certified to the board by the election committee.~~

~~12.10(10) 12.10(5) *Publication of results.* The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533) rule 189—12.12(533). The 60-day posting period required by subrule 12.10(1) 12.12(1) shall run from the date the results are certified to the board by the election committee.~~

ITEM 12. Amend renumbered rule 189—12.13(533) as follows:

**189—12.13(533) ~~Vote on~~ Specific voting requirements for the sale of assets by corporate central credit union.**

**12.13(1) *Board of directors' vote.*** A corporate central credit union that seeks to sell all of its assets to another corporate credit union shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors. The board shall notify the superintendent within ~~three~~ ten days.

**12.13(2) *Subsequent vote of the membership.*** Following a vote by the board of directors to approve a plan to sell all of the corporate central credit union's assets to another corporate credit union, the board shall submit the plan to a vote of the membership.

*a.* The board shall submit the issue within ~~30~~ 60 days of voting to approve the plan to all eligible voters of record as of the date of the vote by the board of directors.

*b.* The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. ~~The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.~~

*c.* The approval of the sale is not final until approved by the superintendent after the membership vote.

~~12.13(3) *Election committee.* The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.~~

~~*a.* It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.~~

~~*b.* The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall~~

## CREDIT UNION DIVISION[189](cont'd)

announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

*e.*—No member or agent of the election committee shall reveal the manner in which any member voted.

*d.*—If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

*e.*—For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

*f.*—For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

**12.13(4) Notice of balloting.** The secretary shall set forth the proposed sale in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

*a.*—The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board's reasons for selling the assets.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed sale through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

*b.*—The notice may be included in statements or newsletters or on the credit union website.

*c.*—The notice may be sent electronically to those members who have opted to receive notices electronically.

**12.13(5) Mailed ballots.** If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

*a.*—The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked "ballot" with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

## CREDIT UNION DIVISION[189](cont'd)

~~(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed "ballot" envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.~~

~~b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.~~

~~c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.~~

~~d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~**12.13(6) Electronic voting.** If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:~~

~~a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.~~

~~b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.~~

~~c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~**12.13(7) Absentee ballots—subsequent in-person vote at meeting.** If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.~~

~~a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.~~

~~b. The secretary shall mail the balloting materials specified in paragraph 12.11(5) "a" to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.~~

~~c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.~~

~~d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~**12.13(8) In-person vote at meeting.** If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the~~

CREDIT UNION DIVISION[189](cont'd)

~~vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.~~

~~12.13(9)~~ **12.13(3)** *Preservation of ballots.* Ballots shall be preserved according to the requirements of ~~189—12.9(533)~~ rule ~~189—12.11(533)~~. The 60-day retention period required by subrule ~~12.9(2)~~ ~~12.11(2)~~ shall run from the date the results are certified to the board by the election committee.

~~12.13(10)~~ **12.13(4)** *Submission to superintendent.* The board of directors shall submit the plan to the superintendent for approval before the plan to sell all of the assets of the corporate central credit union becomes effective. The board shall submit the following documentation in support of its request for approval:

*a. to d.* No change.

~~12.13(11)~~ **12.13(5)** *Publication of results.* The board shall inform the membership of the results of the vote within ten days of certification of the results of the vote by the election committee. The board shall communicate the results to the membership by at least two of the following methods:

*a. to c.* No change.

**ARC 5881C**

## **CREDIT UNION DIVISION[189]**

### **Notice of Intended Action**

#### **Proposing rule making related to fees and providing an opportunity for public comment**

The Credit Union Division hereby proposes to amend Chapter 15, “Foreign Credit Union Branch Offices,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 533.115.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 533.115.

#### *Purpose and Summary*

The proposed amendment updates the annual fees paid by foreign credit unions to the Division.

#### *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 Division for a waiver of the discretionary provisions, if any, pursuant to 189—Chapter 23.

#### *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 Division no later than 4:30 p.m. on September 14, 2021. Comments should be directed to:



CREDIT UNION DIVISION[189](cont'd)

Jessica Pollmeier  
Credit Union Division  
200 East Grand Avenue, Suite 370  
Des Moines, Iowa 50309-1827  
Fax: 515.725.0519  
Email: [jessica.pollmeier@iowa.gov](mailto:jessica.pollmeier@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 subrule 15.6(1) as follows:

**15.6(1)** Each credit union operating a branch office in this state pursuant to these rules and Iowa Code section 533.115 shall pay an annual registration fee of \$1,000 plus \$250 for each branch or office located in Iowa to the superintendent on or before February 1 of each year.

**ARC 5878C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to revolving loan programs  
and providing an opportunity for public comment**

The Iowa Energy Center Board hereby proposes to amend Chapter 403, “Iowa Energy Center,” and Chapter 405, “Alternate Energy Revolving Loan Program,” and to adopt new Chapter 406, “Energy Infrastructure Revolving Loan Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 15.120.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 619.

*Purpose and Summary*

Pursuant to 2021 Iowa Acts, Senate File 619, division XII, the Iowa Energy Center shall not initiate any new loans under the Alternate Energy Revolving Loan Program (AERLP) after June 30, 2021. The legislation further directs the Iowa Energy Center to establish and administer an Energy Infrastructure Revolving Loan Program (EIRLP). The purpose of the new program is to provide financial assistance to projects used for, or useful for, electricity or gas generation, transmission, storage, or distribution; electric grid modernization; energy-sector workforce development; emergency preparedness for rural

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

and underserved areas; the expansion of biomass, biogas, and renewable natural gas; innovative technologies; and the development of infrastructure for alternative fuel vehicles. This proposed rule making amends existing rules relating to the Iowa Energy Center Board and the AERLP and adopts new rules for implementing the new program.

*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 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 Board no later than 4:30 p.m. on September 14, 2021. 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](mailto: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:

ITEM 1. Amend rule **261—403.2(15)**, definition of “Internet site,” as follows:

“Internet site” means the information and related content maintained by the authority and found at ~~www.iowaeconomicdevelopment.com~~ [www.iowaeda.com](http://www.iowaeda.com). “Internet site” may include content at affiliated sites whose content is integrated with that site, ~~including the Iowa energy center website.~~

ITEM 2. Amend paragraph **403.3(5)“a”** as follows:

a. Meetings of the board are held at the call of the chairperson or when two members of the board request a meeting. The board generally meets quarterly at the authority’s offices ~~located at 200 East Grand Avenue in Des Moines, Iowa.~~ By notice of the regularly published meeting agendas, the board

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority's ~~website~~ Internet site.

ITEM 3. Amend subrule 403.3(6) as follows:

**403.3(6) Committees.** The board may, from time to time, establish advisory committees for purposes of overseeing the center, its programs, and its operations. Such committees include but are not limited to the following:

*a.* A grant committee, the purpose of which shall be to assist the board in making and administering awards of grants under the center's programs.

(1) to (4) No change.

(5) Meetings of the grant committee are held at the call of the chairperson.

*b.* A loan committee, the purpose of which shall be to assist the board in making and administering loan awards under the center's programs, including the alternate energy revolving loan program and energy infrastructure revolving loan program.

(1) to (4) No change.

(5) Meetings of the loan committee are held at the call of the chairperson.

ITEM 4. Rescind and reserve rule **261—405.6(15)**.

ITEM 5. Adopt the following new rule 261—405.8(15):

**261—405.8(15) Applicability after June 30, 2021.**

**405.8(1)** Pursuant to 2021 Iowa Acts, Senate File 619, the authority shall not initiate any new loans under the alternate energy revolving loan program after June 30, 2021.

**405.8(2)** To the extent allowed by other provisions of law, the rules adopted in this chapter shall continue to apply to agreements entered into on or before June 30, 2021.

ITEM 6. Adopt the following new 261—Chapter 406:

CHAPTER 406

ENERGY INFRASTRUCTURE REVOLVING LOAN PROGRAM

**261—406.1(15,476) Definitions.**

*"Affiliates"* means any entity which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another entity or person. "Control" as used in this definition means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise. A voting interest of 10 percent or more creates a rebuttable presumption of control.

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

*"Board"* means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

*"Borrower"* means an applicant for the program that is approved for a loan or forgivable loan.

*"Energy infrastructure"* means the same as defined in Iowa Code section 476.46A(3) "a" as enacted by 2021 Iowa Acts, Senate File 619, section 33.

*"Iowa energy center"* or *"IEC"* means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

*"Loan"* means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award.

*"Loan committee"* means the committee of the board established to review loan applications pursuant to 261—paragraph 403.3(6) "b."

*"Program"* means the energy infrastructure revolving loan program administered pursuant to Iowa Code section 476.46A as enacted by 2021 Iowa Acts, Senate File 619, section 33, and this chapter.

*"Project"* means an activity or set of activities directly related to energy infrastructure, and proposed in an application by a borrower, that will result in the accomplishment of the goals of the program.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—406.2(15,476) Policies and procedures handbook.** The authority will prepare a policies and procedures handbook for the program for approval by the board. The board will review the policies and procedures handbook at least once annually and will establish its priorities for program funds. The policies and procedures shall include the amount of program funds to be allocated for each application cycle, scoring criteria to be used if the demand for loans exceeds the amount allocated for any application cycle, and the applicable interest rate or rates for approved loans. The policies and procedures handbook may include additional limitations and expectations for specific eligible project types.

**261—406.3(15,476) Loan amounts and terms.**

**406.3(1)** The minimum loan amount is \$50,000 per project.

**406.3(2)** The board shall not lend more than 75 percent of total project costs for any project type. For purposes of determining the amount the board may lend pursuant to this subrule, total project costs include eligible costs pursuant to subrule 406.6(1) as well as feasibility studies, engineering and final design, permitting and regulatory costs, or other costs determined by the board to be necessary to the development of energy infrastructure. The board may determine a higher percentage of funds that must be matched by the borrower that is applicable to specific project types as outlined in the policies and procedures approved pursuant to rule 261—406.2(15,476).

**406.3(3)** The board shall not issue a loan that exceeds the value of the collateral provided.

**406.3(4)** The board will accept security for a loan. The following forms of collateral will be accepted:

- a. Real property.
- b. Dedicated certificate of deposit.
- c. Irrevocable letter of credit.
- d. Corporate guarantee.
- e. Utility revenue or reserve funds, if applicable.
- f. Other forms of collateral if approved by the board, and only if the forms of collateral listed in paragraphs 406.3(4) “a” to “e” are inadequate.

**406.3(5)** The board may consider the borrower’s credit rating in determining what form of collateral is acceptable.

**406.3(6)** The duration of the loan shall not be more than 15 years. If applicable, the board may consider the projected payback date of the project in determining the duration of the loan.

**406.3(7)** The interest rate shall not exceed the Wall Street Journal prime rate as of the date of approval.

**261—406.4(15,476) Eligible and ineligible borrowers.**

**406.4(1) Eligible borrowers.** Eligible borrowers include:

- a. Businesses incorporated or organized in Iowa or authorized to do business in Iowa, including businesses operated as sole proprietorships with a registered trade name;
- b. Rural electric cooperatives; and
- c. Municipal utilities.

**406.4(2) Ineligible borrowers.** Ineligible borrowers include:

- a. A business that is not located in or operating in Iowa. A business that will be located and operating in Iowa upon completion of an eligible project may be eligible.
- b. A business owned by a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, foreign estate, or any other person that is not a domestic person or entity for federal tax purposes.
- c. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.
- d. Regents institutions.
- e. Community colleges.
- f. State agencies.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- g. Cities, except municipal utilities that are eligible borrowers pursuant to paragraph 406.4(1) "c."
- h. Counties.
- i. School districts.
- j. Nonprofit organizations.

**261—406.5(15,476) Eligible and ineligible projects.**

**406.5(1)** A proposed project must meet the following criteria to be eligible for a loan under this program:

a. The project shall be located in Iowa or be for the primary use or benefit of Iowans. If any portion of the project is located outside of Iowa, the applicant bears the burden of demonstrating that the project as a whole will be for the primary use or benefit of Iowans.

b. The project shall develop energy infrastructure as defined in Iowa Code section 476.46A(3) "a" as enacted by 2021 Iowa Acts, Senate File 619, section 33.

c. The borrower shall be the owner, contract purchaser, lessee, or other interest holder of the real property where the project is located.

**406.5(2)** A project that generates energy for use only at a borrower's personal residence is not an eligible project.

**261—406.6(15,476) Eligible and ineligible costs.**

**406.6(1)** *Eligible costs.* Examples of project costs that are eligible for financial assistance include, but are not limited to:

a. Real and personal property comprising a project.

b. Materials and equipment required for necessary site preparation, construction and installation of a project.

c. Labor for site preparation, construction and installation of a project. Only labor that is performed by a third party such as an independent contractor will be considered an eligible cost.

d. Costs associated with maintenance, operation or repair of a project during the term of the loan.

**406.6(2)** *Ineligible costs.* Examples of project costs that are not eligible for financial assistance include, but are not limited to:

a. Administrative costs not associated with site preparation, construction and installation of a project, including employee salaries of the borrower or any affiliates.

b. Costs incurred prior to the committee's recommendation to approve a loan. Costs incurred prior to the committee's recommendation may be eligible for assistance if the borrower demonstrates the necessity to begin incurring costs sooner.

c. Feasibility studies.

d. Engineering and final design.

e. Permitting or regulatory costs.

f. Other costs that the board determines to be ineligible.

**261—406.7(15,476) Application process.**

**406.7(1)** Application forms shall be available at [iowagrants.gov](http://iowagrants.gov).

**406.7(2)** Applications will be accepted only during the established application periods identified by the authority on its Internet site at [www.iowaeda.com](http://www.iowaeda.com).

**406.7(3)** Authority staff will review applications for completeness, eligibility, and whether the proposed project meets the financial and technical requirements of the Iowa energy center. The authority or board may engage outside reviewers to complete technical, financial, or other reviews of applications beyond the expertise of the board and authority staff.

**406.7(4)** Authority staff will recommend applications to the loan committee established by the board. The Iowa energy center may request additional information from applicants to process each loan application. The loan committee will review the applications and staff recommendations and then make recommendations to the board. The board will approve, defer, or deny applications for loans. Authority staff may negotiate the amount, terms, and other conditions of each loan before an award is approved.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**406.7(5)** The board will accept loan applications on a rolling basis. The board will make funding decisions at least once each quarter.

**261—406.8(15,476) Administration.**

**406.8(1)** *Notice of approval or denial.* The authority will notify applicants in writing of the board's approval or denial of an application. If the application is approved, the notice will include any conditions and terms of the loan.

**406.8(2)** *Contract.* After notifying the borrower of an award, the authority will offer a contract to the borrower. The contract shall be between the Iowa energy center and the borrower. An award shall not constitute a binding contract.

**406.8(3)** *Transmittal.* The borrower must execute and return the contract to the authority within 90 days of the transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

**406.8(4)** *Disbursement of funds.* Borrowers shall submit requests for disbursement of funds on the forms provided by the authority.

**406.8(5)** *Amendment.* Any substantive change to the scope of work for a project or request to renegotiate loan terms shall require an amendment to the contract. The board may consider requests for loan forgiveness if the borrower demonstrates forgiveness is necessary to avoid a negative material impact on the project or potential default. The borrower shall request amendments in writing. No amendment shall be valid until approved by the board. The authority may execute nonsubstantive or ministerial changes to the contract without board approval.

**406.8(6)** *Closeout.* Upon contract expiration or project completion, the authority shall initiate project closeout procedures.

**406.8(7)** *Record keeping and retention.* Borrowers shall retain all financial records, supporting documents and all other records pertinent to the loan for three years after the contract is closed or the loan is put in default and is not cured.

**406.8(8)** *Reporting and compliance.* The borrower shall complete all reports required by the contract executed pursuant to subrule 406.8(2). The authority reserves the right to conduct site visits of all awarded projects to ensure the projects were built as proposed and to provide verification of ongoing operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the contract and that all other sources of financing have been committed to the project.

**406.8(9) Default.**

*a.* At any time during the project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan contract. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

*b.* If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties, negotiate alternative payment schedules, suspend or discontinue collection efforts and take other action as the authority deems necessary.

*c.* The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

*d.* If the authority refers a defaulted contract to outside counsel for debt collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

These rules are intended to implement Iowa Code section 15.120 and section 476.46A as enacted by 2021 Iowa Acts, Senate File 619.

**ARC 5876C****EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to limited English proficiency  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 60, “Programs for Students of Limited English Proficiency,” 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, 2021 Iowa Acts, House File 605.

*Purpose and Summary*

This proposed rule making implements 2021 Iowa Acts, House File 605, which creates two levels of weighting for students who are English learners.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 14, 2021. Comments should be directed to:

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

*Public Hearing*

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.

EDUCATION DEPARTMENT[281](cont'd)

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **281—60.2(280)**, definitions of “Fully English proficient” and “Limited English proficient,” as follows:

*“Fully English proficient”* refers to a student who ~~is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to test ideas, and to challenge what is being asked in the classroom~~ has attained a level of English language skill in reading, writing, listening, and speaking to be proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency as required by Section 1111 of the federal Elementary and Secondary Education Act of 1965 as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95.

*“Limited English proficient”* refers to a student who has a language background other than English, and the student’s proficiency in English is such that the probability of the student’s academic success in an English-only classroom is below that of an academically successful peer with an English language background. Each limited English proficient student shall be identified as either an intensive student or an intermediate student.

ITEM 2. Adopt the following new definitions of “Intensive student” and “Intermediate student” in rule **281—60.2(280)**:

*“Intensive student”* means a limited English proficient student who, even with support, is not proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

*“Intermediate student”* means a limited English proficient student who, either with or without support, approaches being proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

ITEM 3. Amend paragraph **60.6(1)“a”** as follows:

*a.* A student may be included for weighting if the student meets the definition of a limited English proficient student as either an intensive student or an intermediate student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.

**ARC 5877C**

**EDUCATION DEPARTMENT[281]**

**Notice of Intended Action**

**Proposing rule making related to operational function sharing and supplementary weighting and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” and Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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



EDUCATION DEPARTMENT[281](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House Files 847 and 868.

*Purpose and Summary*

2021 Iowa Acts, House Files 847 and 868, make changes to supplementary weighting due to additional functions or positions eligible for operational sharing, add the teacher leadership supplement as an eligible source from which transfers to the flexibility account may be made, and establish a flexible student support program. These proposed amendments implement those provisions.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 14, 2021. Comments should be directed to:

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

*Public Hearing*

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:

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend subrule 97.7(2), introductory paragraph, as follows:

**97.7(2) Operational function area eligibility.** “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, facility operation or maintenance management, curriculum director, master social worker, independent social worker, ~~or~~ school counselor, special education director, work-based learning coordinator, or mental health professional if the mental health professional holds a statement of recognition issued by the board of educational examiners. “Operational function sharing” does not mean sharing of clerical personnel or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

ITEM 2. Adopt the following **new** paragraphs **97.7(2)“i”** to **“k”**:

*i. Special education director.*

(1) Shared personnel must perform the services of a special education director. An individual performing the function of a special education director must be properly licensed for that position.

(2) Teachers, superintendents, principals, curriculum directors, or other support services personnel in the improvement of instruction services function area shall not be considered a shared special education director under this subrule.

(3) Shared special education director services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*j. Work-based learning coordinator.*

(1) Shared personnel must perform the services of a work-based learning coordinator. An individual performing the function of a work-based learning coordinator must be properly trained for that position.

(2) Superintendents, principals, curriculum directors, deans of students, school counselors, or other support services personnel in the guidance services function area shall not be considered a shared work-based learning coordinator under this subrule.

(3) Shared work-based learning coordinator services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*k. Mental health professional.*

(1) Shared personnel must perform the services of a mental health professional. An individual performing the function of a mental health professional must hold a statement of professional recognition issued by the board of educational examiners.

(2) Deans of students, school counselors, or other support services personnel in the guidance services function area shall not be considered a shared mental health professional under this subrule.

(3) Shared mental health professional services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

ITEM 3. Rescind subrule 97.7(10) and adopt the following **new** subrule in lieu thereof:

**97.7(10) Weighting.** A school district that shares an eligible operational function listed in subrule 97.7(2) shall be assigned a supplementary weighting as stipulated in Iowa Code section 257.11(5)“a.” The supplementary weighting shall be assigned to each discrete operational function shared. The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement or qualifying operational sharing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

*a.* A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function.

*b.* A school district that shares an operational function in the area of business management, human resources management, transportation management, or operation and maintenance management shall be

EDUCATION DEPARTMENT[281](cont'd)

assigned a supplementary weighting of five pupils for the function. For the school budget years beginning July 1, 2022; July 1, 2023; and July 1, 2024, the weighting shall be four pupils.

c. A school district that shares the operational functions of a curriculum director, master social worker, independent social worker, school counselor, work-based learning coordinator, or mental health professional shall be assigned a supplementary weighting of three pupils for the function. For the school budget years beginning July 1, 2022; July 1, 2023; and July 1, 2024, the weighting shall be two pupils.

ITEM 4. Adopt the following **new** subrule 98.25(3):

**98.25(3) Flexibility account.** All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2020, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2, provided all statutory requirements of the teacher leadership program have been met.

ITEM 5. Amend rule 281—98.27(257,298A), introductory paragraph, as follows:

**281—98.27(257,298A) Flexibility account.** Beginning with the budget year beginning July 1, 2017, in accordance with Iowa Code section 298A.2, a flexibility account shall be established in the general fund of each school corporation if the school corporation has authorized a transfer of all or a portion of its unexpended and unappropriated funds from any of the following sources: the statewide voluntary preschool program, the professional development supplement, the teacher leadership supplement, and the home school assistance program. Additionally, moneys from any other school district fund or general fund account can be transferred to the flexibility account if the program, purpose, or requirements for expenditure of such moneys have been repealed or are no longer in effect.

ITEM 6. Adopt the following **new** paragraph **98.27(3)“i”**:

i. Support of an approved flexible student and school support program under Iowa Code section 256.11.

**ARC 5874C**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

#### **Proposing rule making related to surplus lines insurers and risk retention groups and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 21, “Requirements for Surplus Lines, Risk Retention Groups and Purchasing Groups,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 515E.14 and 515I.15.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 515E and 515I.

#### *Purpose and Summary*

This proposed rule making adds a late fee of \$500 for surplus lines insurers and risk retention groups that (1) fail to file renewal applications by March 1 of each year following the year of registration or fail to submit requested information or (2) fail to file a financial statement as instructed on the Division’s website.

The Division has been unable to secure reasonable compliance with the renewal requirements and timely submission of financial statements for eligible surplus lines insurers and risk retention groups. This increasing noncompliance has taken two forms: more filers filing after the deadline and more filers

## INSURANCE DIVISION[191](cont'd)

requiring additional outreach from the Division. In 2020, 13 surplus lines insurers and 11 risk retention groups failed to timely file their renewal.

Under the existing Chapter 21, noncompliance requires automatic termination of the insurer's status as an eligible surplus lines insurer. In the event of noncompliance, the Division may also pursue a formal administrative proceeding. The proposed subrules consistently apply the same penalty to surplus lines insurers and risk retention groups as is applied to other insurers that fail to timely file an application for renewal or fail to timely file financial statements.

*Fiscal Impact*

The fiscal impact cannot be calculated at this time. The goal of imposing a late fee is to encourage compliance with the filing deadline. If the addition of the late fee has its intended effect, the fiscal impact will be zero.

*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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*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 Division no later than 4:30 p.m. on September 15, 2021. Comments should be directed to:

Bob Koppin  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Email: [robert.koppin@iid.iowa.gov](mailto:robert.koppin@iid.iowa.gov)

*Public Hearing*

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

September 15, 2021  
9 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at [iid.iowa.gov/hearings](http://iid.iowa.gov/hearings). Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will 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 Swalwell and advise of specific needs.

*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

## INSURANCE DIVISION[191](cont'd)

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 subrules 21.5(2) to 21.5(4) as follows:

**21.5(2)** *Procedures for renewal of an insurer as an eligible surplus lines insurer.* An eligible surplus lines insurer that was approved by the division as an eligible surplus lines insurer, except for an alien insurer under Iowa Code section ~~515I.2(7) "b,"~~ 515I.2(8) "b," must by March 1 of each year following the year of approval:

*a. to c.* No change.

**21.5(3)** *Periodic reporting.* An eligible surplus lines insurer, except for an alien insurer under Iowa Code section ~~515I.2(7) "b,"~~ 515I.2(8) "b," must submit annual and quarterly financial statements to the division as instructed on the division's website.

**21.5(4)** *Failure to comply with renewal procedures.* ~~Failure of an eligible surplus lines insurer to timely submit the renewal materials required by subrule 21.5(2) will result in the automatic termination of the insurer's status as an eligible surplus lines insurer.~~ An eligible surplus lines insurer that fails to timely file an application for renewal as an eligible surplus lines insurer or fails to provide requested information shall pay a late fee of \$500.

ITEM 2. Adopt the following **new** subrules 21.5(5) to 21.5(7):

**21.5(5)** *Failure to timely file financial statements.* An eligible surplus lines insurer that fails to file a financial statement, as instructed on the division's website, shall pay a late fee of \$500. The commissioner may give notice to an insurer that fails to timely file that the insurer is in violation of this subrule. If the insurer fails to file the required financial statements within ten days of the date of the notice, the insurer shall pay an additional late fee of \$100 for each day the failure continues.

**21.5(6)** *Failure to comply with this rule.* An eligible surplus lines insurer's authority to transact new business in this state shall immediately cease until the insurer has fully complied with this rule, including paying all applicable late fees.

**21.5(7)** *Suspension.* The commissioner may order the suspension of an eligible surplus lines insurer's authority to transact the business of insurance within the state, after notice and hearing pursuant to Iowa Code chapter 17A, if the eligible surplus lines insurer fails to fully comply with this rule within 90 days, including paying all applicable late fees.

ITEM 3. Amend rule 191—21.6(515E) as follows:

**191—21.6(515E) Procedures for qualification and renewal as a risk retention group.**

**21.6(1)** *Application and procedures for initial qualification as a risk retention group.* Any insurer who wishes to register under Iowa Code chapter 515E as a risk retention group must:

*a. and b.* No change.

**21.6(2)** *Procedures for renewal as a risk retention group.* A risk retention group must pay a \$100 renewal fee by March 1 of each year following the year of registration. The risk retention group must annually provide information requested by the division for determination of continued registration.

**21.6(3)** *Failure to comply with renewal procedure.* A risk retention group that fails to timely file an application for renewal as a risk retention group or fails to provide requested information shall pay a late fee of \$500.

**21.6(4)** *Failure to timely file financial statements.* A risk retention group that fails to file a financial statement, as instructed on the division's website, shall pay a late fee of \$500. The commissioner may give notice to a group that fails to timely file that the group is in violation of this subrule. If the group fails to file the required financial statements within ten days of the date of the notice, the group shall pay an additional late fee of \$100 for each day the failure continues.

INSURANCE DIVISION[191](cont'd)

21.6(5) Failure to comply with this rule. A risk retention group's authority to transact new business in this state shall immediately cease until the group has fully complied with this rule, including paying all applicable late fees.

21.6(6) Suspension. The commissioner may order the suspension of a risk retention group's authority to transact the business of insurance within the state, after notice and hearing pursuant to Iowa Code chapter 17A, if the risk retention group fails to fully comply with this rule within 90 days, including paying all applicable late fees.

**ARC 5875C**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

#### **Proposing rule making related to viatical and life settlement reporting requirements and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 48, "Viatical and Life Settlements," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 508E.19.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 508E.6.

#### *Purpose and Summary*

This proposed rule making clarifies the requirements of the annual report for viatical settlement providers and adds a late fee of \$100. There are 13 licensed viatical settlement providers, and the Division has received seven late reports in the past two years. The goal of this rule making is to make the annual reports more uniform and to discourage late filing.

#### *Fiscal Impact*

The fiscal impact cannot be calculated at this time. The goal of imposing a late fee is to encourage compliance with the filing deadline. If the addition of the late fee has its intended effect, the fiscal impact will be zero.

#### *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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—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 Division no later than 4 p.m. on September 15, 2021. Comments should be directed to:

INSURANCE DIVISION[191](cont'd)

Tracy Swalwell  
Iowa Insurance Division  
1963 Bell Ave, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6549  
Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

*Public Hearing*

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

September 15, 2021  
10 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at [iid.iowa.gov/hearings](http://iid.iowa.gov/hearings). Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will 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 Swalwell and advise of specific needs.

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on September 14, 2021.

*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 rule 191—48.7(508E) as follows:

**191—48.7(508E) Reporting requirements.** Pursuant to Iowa Code section 508E.6, on or before March 1 of each year, the secretary and either the president or the vice president of each viatical settlement provider licensed in this state shall submit, under oath, an annual statement report for the immediately preceding calendar year.

~~48.7(1) Transaction information. On March 1 of each calendar year, the secretary and either the president or the vice president of each viatical settlement provider licensed in this state shall submit, under oath, the following: the annual statement required by Iowa Code section 508E.6; a report of all viatical settlement transactions in which the viator is a resident of this state; and a report for all states in the aggregate. The annual statement report shall contain the following transaction information for the previous calendar year all viatical settlement transactions in which the viator is a resident of this state:~~

~~a. The following information pursuant to Iowa Code section 508E.6:~~

- ~~(1) Total number of transactions;~~
- ~~(2) Aggregate face amount of all policies; and~~
- ~~(3) Total proceeds of policies settled.~~

~~a. b. For viatical settlements contracted during the reporting period:~~

- ~~(1) to (12) No change.~~

INSURANCE DIVISION[191](cont'd)

- ~~b. c.~~ For viatical settlements in which death of the insured has occurred during the reporting period:  
(1) to (10) No change.
- ~~e. d.~~ Name and address of each viatical settlement broker through whom the reporting company purchased a policy from a viator who resided in this state at the time of contract;
- ~~e.~~ Name of the insurance companies whose policies have been settled;
- ~~d. f.~~ Number of policies reviewed and rejected; and
- ~~e. g.~~ Number of policies purchased from persons other than a viator (on the secondary market) as a percentage of total policies purchased.
- 48.7(2) Additional required information.** ~~On or before March 1 of each year, the secretary and either the president or the vice president of each viatical settlement provider licensed in this state shall make a report under oath of the following or shall provide the following documentation. The annual statement report shall also contain the following documentation and statements:~~
- ~~a. to c.~~ No change.
- ~~d.~~ Transaction information as identified in subrule 48.7(1) for all states.
- 48.7(3) Form.** The annual statement report shall be submitted in a format prescribed by the commissioner.
- 48.7(4) Late fee.** A viatical settlement provider that fails to timely file the annual statement report pursuant to this rule shall pay a late fee of \$100.

## TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

### Public Notice

#### NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2021, AND ENDING AUGUST 31, 2022

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, 2021, and ending on August 31, 2022, of \$2,610,347.50.

The adjusted contract limitation amount becomes effective on September 1, 2021. 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 5.4 percent from July 2020 to June 2021.

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

## 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



TREASURER OF STATE(cont'd)

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 3.50%.

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 10, 2021, 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 .05%
180-364 days .....	Minimum .05%
One year to 397 days .....	Minimum .05%
More than 397 days .....	Minimum .05%

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:

September 1, 2020 — September 30, 2020	2.50%
October 1, 2020 — October 31, 2020	2.75%
November 1, 2020 — November 30, 2020	2.75%
December 1, 2020 — December 31, 2020	2.75%
January 1, 2021 — January 31, 2021	2.75%
February 1, 2021 — February 28, 2021	3.00%
March 1, 2021 — March 31, 2021	3.00%

## USURY(cont'd)

April 1, 2021 — April 30, 2021	3.25%
May 1, 2021 — May 31, 2021	3.50%
June 1, 2021 — June 30, 2021	3.75%
July 1, 2021 — July 31, 2021	3.50%
August 1, 2021 — August 31, 2021	3.50%
September 1, 2021 — September 30, 2021	3.25%

ARC 5866C

## EDUCATION DEPARTMENT[281]

Adopted and Filed

## Rule making related to independent private instruction and online learning

The State Board of Education hereby amends Chapter 15, “Online and Virtual Learning,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 546.

*Purpose and Summary*

2021 Iowa Acts, Senate File 546, removes the ability for students receiving independent private instruction to participate in certain forms of online learning. This rule making conforms the Department’s rules to that statutory requirement.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 30, 2021, as **ARC 5737C**. A public hearing was held on July 20, 2021, at 9 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, with an option for videoconference participation. No one attended the public hearing.

The Department received one public comment, which was in favor of the proposed amendments. The commenter, an attorney who represents a home school advocacy organization, offered additional suggestions of rules to amend. Those suggested additional amendments are entirely consistent with the provisions of 2021 Iowa Acts, Senate File 546, and the Notice, and the Department has adopted the suggested changes. Those changes include adding Items 2 and 5, renumbering the items from the Notice, and amending the catchwords in Items 3 and 4.

*Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

*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

EDUCATION DEPARTMENT[281](cont'd)

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 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 15.6(1) as follows:

**15.6(1)** *Online learning program delivered by area education agencies.* Subject to an appropriation of funds by the general assembly for this purpose, AEAs may provide an online learning program to deliver distance education to Iowa's secondary students, including students receiving ~~independent private instruction~~, competent private instruction, ~~or private instruction by a nonlicensed person~~ under Iowa Code chapter 299A. An AEA may provide an online learning program separately, in collaboration with other AEAs, or in partnership with school districts and accredited nonpublic schools.

ITEM 2. Amend subrule 15.6(2) as follows:

**15.6(2)** *Student participation.* To participate in an online learning program offered by an AEA, a student must be enrolled in a participating school district or accredited nonpublic school or be receiving competent private instruction under Iowa Code chapter 299A.

ITEM 3. Amend subrule 15.6(6) as follows:

**15.6(6)** *Private Competent private instruction.* This rule applies to students receiving ~~independent private instruction as defined in Iowa Code section 299A.1(2) "b,"~~ competent private instruction under Iowa Code ~~section 299A.2, or private instruction by a nonlicensed person under Iowa Code section 299A.3~~ chapter 299A. To participate in an online learning program offered by an area education agency, a student receiving competent private instruction under Iowa Code chapter 299A shall take whatever steps are necessary to enroll with the student's district of residence. The coursework offered by AEAs pursuant to this subrule must be taught and supervised by a teacher licensed under Iowa Code chapter 272 who has online learning experience, and the course content must meet the requirements established by rule pursuant to Iowa Code section 256.7(32) "c."

ITEM 4. Amend subrule 15.8(4) as follows:

**15.8(4)** *Private Competent private instruction.* The online learning platform described in subparagraph 15.8(3) "b"(3) may deliver distance education to students, ~~including students receiving independent private instruction as defined in Iowa Code section 299A.1(2) "b,"~~ competent private instruction under Iowa Code ~~section 299A.2, or private instruction by a nonlicensed person under Iowa Code section 299A.3~~ chapter 299A, provided such students register with the school district of residence and the coursework offered by the online learning platform is taught and supervised by a teacher licensed under Iowa Code chapter 272 who has online learning experience, and the course content meets the requirements established by rule pursuant to Iowa Code section 256.7(32) "c."

ITEM 5. Amend rule 281—15.10(256) as follows:

**281—15.10(256)** *Online learning—access by students receiving competent private instruction.* Students enrolled in competent private instruction pursuant to Iowa Code chapter 299A may participate in online instruction pursuant to subrules 15.6(6) and 15.8(4). The individual providing instruction to a student under Iowa Code chapter 299A as described in Iowa Code section 299A.1(1) shall receive the student's score for completed program coursework.

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5869C****EDUCATION DEPARTMENT[281]****Adopted and Filed****Rule making related to voluntary diversity plans and open enrollment**

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

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 228; 2021 Iowa Acts, Senate File 260; and 2021 Iowa Acts, House File 847.

*Purpose and Summary*

2021 Iowa Acts, House File 228, eliminates the ability of school districts to offer voluntary diversity plans. 2021 Iowa Acts, House File 847, makes substantive changes to open enrollment. 2021 Iowa Acts, Senate File 260, provides additional requirements for Medicaid billing for students with disabilities who participate in open enrollment. These changes are incorporated in this rule making, as well as nonsubstantive changes in grammar and word choice.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 30, 2021, as **ARC 5745C**. A public hearing was held on July 20, 2021, at 9:30 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, with a videoconference option. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

*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

## EDUCATION DEPARTMENT[281](cont'd)

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 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind the definitions of “Diversity plan,” “Eligible district,” “Minority student” and “Socioeconomic status” in rule **281—17.2(282)**.

ITEM 2. Amend rule **281—17.2(282)**, definition of “Court-ordered desegregation plan,” as follows:

“Court-ordered desegregation plan” means a plan that is under direct court order to avoid racial isolation in the district decree, judgment, or order entered by a court in response to a case or controversy alleging the district engaged in unlawful segregation. A desegregation plan is not “court-ordered” merely because a school district seeks approval of a voluntarily developed desegregation plan.

ITEM 3. Amend paragraph **17.3(2)“c”** as follows:

*c.* The parent/guardian may withdraw an open enrollment request ~~anytime~~ any time prior to the first day of school in the resident district. 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).

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

**17.3(3)** *Exception to process when resident district is under ~~voluntary or~~ court-ordered desegregation.* If the resident district has a ~~voluntary or~~ court-ordered desegregation plan ~~requiring the district to maintain minority and nonminority student ratios~~, 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. Amend subrule 17.4(1) as follows:

**17.4(1)** Good cause related to change in the pupil’s residence shall include:

*a.* A change in the family residence due to the family’s moving from the district of residence ~~anytime~~ any time after March 1 of the school year preceding the school year for which open enrollment is requested.

*b.* A change in the child’s residence from the residence of one parent or guardian to the residence of a different parent or guardian.

~~*b. c.*~~ *c.* A change in the state of residence allowing a parent/guardian moving into an Iowa school district from out of state to obtain open enrollment to a different district from their new district of residence.

~~*d.*~~ *d.* A change in the marital status of the pupil’s parents.

~~*e.*~~ *e.* A guardianship or custody proceeding.

~~*f.*~~ *f.* Placement of the child in foster care.

~~*g.*~~ *g.* Adoption.

~~*h.*~~ *h.* Participation in a foreign exchange program.

*i.* Initial placement of a prekindergarten student in a special education program requiring specially designed instruction.

~~*h. j.*~~ *j.* Participation in a substance abuse or mental health treatment program.

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 6. Adopt the following new paragraph 17.4(2)“e”:

e. Other actions.

(1) Revocation of a charter school contract after March 1 as provided in Iowa Code section 256F.8.

(2) The child’s assigned attendance center in the district of residence is identified as in significant need for improvement. “Significant need for improvement” means a school attendance center designated by the department of education under the priority category under the Iowa school performance profiles for two or more of the immediately preceding school years or identified for comprehensive support and improvement under the federal Every Student Succeeds Act, Pub. L. No. 114-95, or an equivalent objective federal standard, for two or more of the immediately preceding school years.

ITEM 7. Amend paragraph 17.4(6)“a” as follows:

a. Upon affirmative vote of a majority of its board to do so, the resident district shall file a written appeal to the director within 30 days of receipt by the resident district of notification by the board of the receiving district of the approval by the receiving district of a late-filed open enrollment request. The written appeal shall state the name and grade level of the affected student, the name of the receiving district, the date of approval by the board of the receiving district, the date the resident district was notified of the approval, and a brief statement explaining why the resident district board believes there is no good cause for the request to have been filed and approved after March 1. The appeal shall be signed by the president of the board of the resident district and shall have attached to it a copy of the disputed open enrollment request and the minutes of the board meeting at which the resident district board voted to appeal. An appeal is timely filed if it is postmarked or delivered personally or via facsimile transmission or electronic mail to the director within the 30-day time period.

ITEM 8. Amend rule 281—17.5(282) as follows:

**281—17.5(282) Filing after the March 1 deadline—harassment, failure to respond to academic needs, or serious health condition.** A parent/guardian may apply for open enrollment after the filing deadline of March 1 of the school year preceding the school year for which open enrollment is requested if the parent’s/guardian’s child is the victim of repeated acts of harassment that the resident district cannot adequately address, if there is a consistent failure of the resident district to reasonably respond to a student’s failure to meet basic academic standards after notice provided by a parent or guardian, or if the child has a serious health condition that the resident district cannot adequately address. If ~~either~~ any of these conditions exists, the parent/guardian shall be permitted to apply for open enrollment by sending notification to both the resident and receiving districts.

**17.5(1) Board action.** The board of the resident district shall act on the request within 30 days of its receipt. If the request is denied, the parent/guardian shall be notified by the district superintendent within 3 days following board action. If the request is approved, the district superintendent shall forward the approved application form to the receiving district within 5 days following board action and shall notify the parent/guardian within 3 days of this action. The board of the receiving district shall act to approve or deny an open enrollment request within 30 days following receipt of the notice of approval from the resident district. 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 15 days of board action.

**17.5(2) Appeal.** A denial by either board of a request made under this rule involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address may be appealed by a parent/guardian to the state board of education pursuant to Iowa Code section 290.1. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.

**17.5(3) Criteria for determining whether a resident district consistently failed to reasonably respond to a student’s failure to meet basic academic standards.** Reserved.

ITEM 9. Amend subrule 17.6(2) as follows:

**17.6(2) ~~Voluntary diversity plans or court-ordered~~ Court-ordered desegregation plans.** In districts with court-ordered desegregation ~~or voluntary diversity plans~~ where there is a requirement to maintain minority and nonminority student ratios according to the plan, the superintendent of the district may deny

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a request for open enrollment if it is found that the enrollment or release of a pupil will adversely affect the district's court-ordered desegregation plan ~~or voluntary diversity plan~~. Open enrollment requests that would facilitate the court-ordered desegregation plan ~~or voluntary diversity plan~~ shall be given priority over other open enrollment requests received by the district. A parent/guardian whose request for open enrollment is denied by the superintendent of the district on the basis of its adverse effect on the district's court-ordered desegregation plan ~~or voluntary diversity plan~~ may appeal that decision to the district board.

ITEM 10. 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 parent/guardian requesting to enroll 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. In considering an application for a kindergarten pupil, 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 plan ~~or 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 ~~kindergarten~~ pupil under this rule.

ITEM 11. Amend subrule 17.8(2), introductory paragraph, as follows:

**17.8(2) Restrictions on participation in interscholastic athletic contests and competitions.** Subject to rule 281—17.15(282), a pupil who changes school districts under open enrollment in any of the grades 9 through 12 shall not be eligible to participate in varsity interscholastic athletic contests and competitions during the first 90 school days of enrollment. This restriction also shall apply to enrollments resulting from an approved petition filed by a parent/guardian to open enroll to an alternative receiving district and when the pupil returns to the district of residence using the process outlined in subrule 17.8(4). This 90-school-day restriction does not prohibit the pupil from practicing with an athletic team during the 90 school days of ineligibility. If a pupil is declared ineligible for interscholastic athletic contests and athletic competitions in the pupil's district of residence due to the pupil's academic performance, upon participating in open enrollment, in addition to any other period of ineligibility under this rule, the pupil shall be ineligible in the receiving district for the remaining period of ineligibility declared by the district of residence. This 90-school-day restriction is not applicable to a pupil who:

ITEM 12. Adopt the following new paragraphs **17.8(2) "k"** to **"n"**:

*k.* Participates in open enrollment because of circumstances that meet the definition of "good cause" under rule 281—17.4(282).

*l.* Resides in a district in which the board of directors or superintendent issues or implements a decision that results in the discontinuance or suspension of varsity interscholastic sports activities in the district.

*m.* Participates in open enrollment and the board of directors of the district of residence and the board of directors of the receiving district both agree to waive the ineligibility period.

*n.* Open enrolls for the school year beginning July 1, 2021, if the pupil's district of residence had a voluntary diversity plan in effect on January 1, 2021, and applicable to the school year beginning July 1, 2021.

ITEM 13. 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



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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 original 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, ~~if any, in which the move took place, providing the move took place on or after the date specified in Iowa Code section 257.6, subsection 1.~~ The new district of residence shall be responsible for these payments during succeeding years of the agreement.

~~If the move takes place between the end of one school year and the date specified in Iowa Code section 257.6, subsection 1, of the following school year, the new district of residence shall be responsible for that year's payment as well as succeeding years.~~

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, subsection 1~~ 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 14. Amend subrule 17.8(7) 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 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, subsection 1~~ 257.6(1). Timely 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, subsection 1~~ 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.

*a.* This subrule applies in the following circumstances: 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 proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program.

*b.* This rule applies to the following children:

- (1) A child who is enrolled in any grade from kindergarten through grade 12.
- (2) A prekindergarten student who is enrolled in a special education program at the time of the request and is not currently using any provision of open enrollment.

ITEM 15. Amend subrule 17.8(9) as follows:

**17.8(9) *Appeal procedure.*** A parent/guardian may appeal the decision of the board of directors of a school district (resident or receiving) only on an application for open enrollment under Iowa Code section 282.18(5) ~~as amended by 2002 Iowa Acts, House File 2515 and rule 281—17.5(282).~~ This appeal is to the state board of education and shall comply with the provisions of Iowa Code section 290.1. The appeal shall be filed within 30 days of the decision of the district board and shall be in the form of an affidavit signed by the parent/guardian. It shall state in a plain and concise manner what the parent/guardian feels to be the basis for appeal.

ITEM 16. Amend subrule 17.9(3) as follows:

**17.9(3) *Economic eligibility requirements for transportation.*** A parent/guardian shall be eligible for transportation assistance from the resident district if the household income of the parent/guardian is ~~at or below 160 percent of the federal income poverty guidelines as stated by household size~~ 200 percent

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or less of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services. Since the federal ~~income~~ poverty income guidelines are adjusted each year, the department of education shall provide revised eligibility guidelines to school districts each year.

ITEM 17. Amend subrule 17.11(4) as follows:

**17.11(4) Finance.** The district of residence shall pay to the receiving district on the schedule set forth in subrule 17.10(5) the actual costs incurred by the receiving district in providing the appropriate special education program. These costs shall be based on the current year expenditures with needed adjustments made in the final payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil shall rest with the resident district. The receiving district and the receiving area education agency director shall provide, at least on an annual basis, evaluation reports and information to the resident district on each special education open enrollment pupil. The receiving district shall provide notice to the resident district of all staffings scheduled for each open enrollment pupil. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, the resident district and the receiving district are required to forward a copy of any approved open enrollment request to the director of special education of their respective area education agencies. Any moneys received by the area education agency of the resident district for an approved open enrollment special education pupil shall be forwarded to the receiving district's area education agency. For children requiring special education, the receiving district shall complete and provide to the district of residence the documentation necessary to seek Medicaid reimbursement for eligible services.

ITEM 18. Rescind and reserve rule **281—17.13(282)**.

ITEM 19. Rescind rule 281—17.14(282) and adopt the following **new** rule in lieu thereof:

**281—17.14(282) Court-ordered desegregation plans.**

**17.14(1) Applicability.** These rules govern only the components of a court-ordered desegregation plan as the plan affects open enrollments.

**17.14(2) Nature of court-ordered desegregation plan.** The language of the court order shall be binding on a district's implementation of open enrollment. The district shall notify the department of any court-ordered desegregation plan and any court-ordered modifications to that plan.

This rule is intended to implement Iowa Code section 282.18 as amended by 2021 Iowa Acts, House File 228.

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5871C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

**Rule making related to senior year plus program**

The State Board of Education hereby amends Chapter 22, "Senior Year Plus Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

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

EDUCATION DEPARTMENT[281](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2310, and 2021 Iowa Acts, House File 308.

*Purpose and Summary*

Item 1 amends the student eligibility requirements to reflect 2021 Iowa Acts, House File 308. Item 2 strikes an obsolete reference to Iowa Learning Online. Item 3 strikes an obsolete requirement related to the Summer College Credit Program.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5661C**. A public hearing was held on June 22, 2021, at 8 a.m. in the ICN Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, with a videoconference option. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

*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).

*Effective Date*

This rule making will become effective on September 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind paragraph **22.2(2)“b”** and adopt the following **new** paragraph in lieu thereof:

*b.* Demonstrated proficiency in reading, mathematics, and science.

(1) The student, except as otherwise provided in this paragraph, shall have demonstrated proficiency in reading, mathematics, and science as evidenced by achievement of any of the following:

1. Demonstrated proficiency in all of the content areas of English language arts, including reading and writing; mathematics; and science, as evidenced by achievement scores on the most recent administration of the statewide assessment for which scores are available for the student. For purposes of this paragraph, starting in the school year beginning July 1, 2021, and each thereafter,

## EDUCATION DEPARTMENT[281](cont'd)

the achievement scores from the state assessment administered during the school year beginning July 1, 2019, shall be considered the latest available scores. If the student was absent for the most recent administration of the statewide assessment, and such absence was not excused by the student's school of enrollment, the student is deemed not to be proficient in any of the content areas.

2. Measures of college readiness jointly agreed upon by the school board and the eligible postsecondary institution that allow a student to demonstrate competency in one or all of the required subject areas. Institutions shall ensure the following:

- The measures of college readiness align to the proficiency levels established for the statewide assessment and reflect the competence of entering first-year students at the postsecondary institution.
- The measures of college readiness are specified in a contract entered into by the participating institutions.

3. Alternative but equivalent qualifying performance measures, if established by the school board. The school board is not required to establish equivalent performance measures, but if it does so, such measures may include but are not limited to additional administrations of the state assessment, portfolios of student work, student performance rubric, or end-of-course assessments.

(2) Measures established under subparagraphs 22.2(1)“b”(2) and 22.2(1)“b”(3) shall apply equally to all eligible students.

(3) A student who attends an accredited nonpublic school and desires to access postsecondary enrollment options shall meet the same eligibility criteria as students in the school district in which the accredited nonpublic school is located.

(4) A student under competent private instruction shall meet the same proficiency standard as students in the school district in which the student is dually enrolled and shall have the approval of the school board in that school district to register for the postsecondary course. In lieu of statewide assessment scores on the state assessment, a school district shall allow a student under competent private instruction to demonstrate proficiency in reading, mathematics, and science by any one of the following means:

1. By meeting the same alternative but equivalent qualifying performance measures established by the local school board for all students in the school district in which the student is dually enrolled;
2. By submitting the written recommendation of the licensed practitioner providing supervision to the student in accordance with Iowa Code section 299A.2;
3. As evidenced by achievement scores on the annual achievement evaluation required under Iowa Code section 299A.4;
4. As evidenced by a composite score of at least 21 on the college readiness assessment administered by ACT, Inc.;
5. As evidenced by a sum of at least 141 in critical reading, mathematics, and writing skills on the preliminary scholastic aptitude test (PSAT) administered by the College Board; or
6. As evidenced by a sum of at least 990 in critical reading and mathematics on the college readiness assessment (SAT) administered by the College Board.

ITEM 2. Amend rule 281—22.28(261E) as follows:

**281—22.28(261E) Internet-based coursework.** The programming in this chapter may be delivered via Internet-based technologies ~~including but not limited to the Iowa learning online program~~. An Internet-based course may qualify for additional supplemental weighting if it meets the requirements of Division IV or Division VI of this chapter. To qualify as a senior year plus course, an Internet-based course must comply with the appropriate provisions of this chapter.

ITEM 3. Amend paragraph **22.33(3)“c”** as follows:

*c. Review of proposals.* The department shall establish a review process to evaluate all program proposals. In reviewing proposals, the department shall give priority consideration to program proposals that will ensure equitable geographic disbursement of approved programs. The department shall also give consideration to additional criteria including number of students served; ~~cost per credit hour offered~~; alignment to in-demand occupations; the inclusion of extracurricular experiences with an emphasis on

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project-, problem-, and work-based learning opportunities; and the inclusion of provisions that address and remove barriers to participation for nontraditional students, underrepresented minority students, and low-income students.

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5868C**

## **EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

### **Rule making related to private instruction**

The State Board of Education hereby amends Chapter 31, "Private Instruction and Dual Enrollment," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

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

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 546.

#### *Purpose and Summary*

2021 Iowa Acts, Senate File 546, makes changes to Iowa Code chapter 299A, "Private Instruction." This rule making incorporates the changes that are within the jurisdiction of the Department of Education and the State Board (certain changes are within the jurisdiction of the Iowa Department of Transportation). This rule making also removes obsolete references to Iowa Acts that have subsequently been codified, as well as making nonsubstantive wording changes regarding special education eligibility.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 30, 2021, as **ARC 5738C**. A public hearing was held on July 20, 2021, at 10:30 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, with a videoconference option. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

#### *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.

EDUCATION DEPARTMENT[281](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on September 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **31.1(2)“a”** as follows:

a. “*Competent private instruction*” means ~~private~~ either of the following:

(1) Private instruction provided on a daily basis for at least 148 days during a school year, to be met by attendance for at least 37 days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under Iowa Code section 299A.2 and this chapter, which results in the student about whom a report of private instruction has been filed making adequate progress.

(2) Private instruction provided by a parent, guardian, or legal custodian pursuant to Iowa Code section 299A.3.

ITEM 2. Amend paragraph **31.1(2)“b”** as follows:

b. “*Independent private instruction*” means private instruction that meets the following criteria:

(1) Is not accredited.  
 (2) Enrolls not more than four unrelated students.  
 (3) Does not charge tuition, fees, or other remuneration for instruction.  
 (4) Provides private or religious-based instruction as its primary purpose.  
 (5) Provides enrolled students with instruction in mathematics, reading and language arts, science, and social studies.

(6) Provides, upon written request from the superintendent of the school district in which the independent private instruction is provided, or from the director of the department of education, a report identifying the primary instructor, name and location of the authority responsible for the independent private instruction, and the names of the students enrolled.

(7) Is not a nonpublic school and does not provide competent private instruction as defined in Iowa Code section 299A.1 ~~as amended by 2013 Iowa Acts, House File 215, section 87,~~ and these rules.

(8) Is exempt from all state statutes and administrative rules applicable to a school, a school board, or a school district, except as otherwise provided in Iowa Code chapters 299 and 299A ~~as amended by 2013 Iowa Acts, House Files 215 and 454.~~

ITEM 3. Amend subrule 31.2(3) as follows:

**31.2(3) Reporting requirement option: private instruction exemption.** A parent, guardian, or legal or actual custodian of a child of compulsory attendance age providing competent private instruction to the child under Iowa Code section 299A.3 ~~as amended by 2013 Iowa Acts, House File 215, section 88, (private instruction by nonlicensed person)~~ may meet, but is not required to meet, all of the following requirements:

a. Complete and send, in a timely manner, the report required under Iowa Code section 299.4 ~~as amended by 2013 Iowa Acts, House File 215, sections 84 to 86,~~ and this rule to the school district of residence of the child.

## EDUCATION DEPARTMENT[281](cont'd)

b. Ensure that the child under the parent's, guardian's, or legal or actual custodian's instruction is evaluated annually to determine whether the child is making adequate progress, as defined in Iowa Code section 299A.6 and this chapter.

c. Ensure that the results of the child's annual evaluation are reported to the school district of residence of the child and to the department of education by a date not later than ~~June 30 of each~~ August 1 of the year following the school year in which the child is under competent private instruction, pursuant to this chapter.

ITEM 4. Amend paragraph **31.3(3)"e"** as follows:

e. Referring to the child's district of residence for evaluation a child who the practitioner has reason to believe may be in need of special education.

ITEM 5. Amend paragraph **31.4(3)"e"** as follows:

e. For purposes of assisting the district to meet its "child find" obligation under the Individuals with Disabilities Education Act, referring to the child's district of residence for evaluation any child who the practitioner has reason to believe may be in need of special education.

ITEM 6. Amend paragraph **31.5(1)"d"** as follows:

d. The district shall annually report to the department of education by ~~June 30~~ August 1 of the year following the school year in which a child was under competent private instruction the names of all resident children who are subject to an annual assessment and who either failed to make adequate progress or whose parent, guardian, or legal or actual custodian failed to comply with the assessment requirements of the compulsory attendance law.

ITEM 7. Amend paragraph **31.5(1)"g"** as follows:

g. The district may request a parent, guardian, or legal or actual custodian of a child of compulsory attendance age providing competent private instruction to the child under Iowa Code section 299A.3 as amended by 2013 Iowa Acts, House File 215, section 88, ~~(private instruction by nonlicensed person)~~ to provide the information required by this subrule; however, the parent, guardian, or legal or actual custodian is not required to do so, pursuant to Iowa Code section 299A.3 as amended by 2013 Iowa Acts, House File 215, section 88, and subrule 31.2(3).

ITEM 8. Amend paragraph **31.5(2)"c"** as follows:

c. The administration of the annual achievement evaluation shall not constitute a dual enrollment purpose under Iowa Code section 299A.8 as amended by 2013 Iowa Acts, House File 215, section 94, and this rule.

ITEM 9. Amend subrule 31.5(6) as follows:

**31.5(6) Driver education.** The public school district shall offer or make available to all resident students, including those receiving competent private instruction on an equal basis with students enrolled in the district, an approved course in driver education, as required by Iowa Code section 321.178(1) "c." as amended by 2013 Iowa Acts, House File 215, section 99.

ITEM 10. Amend subrule **31.8(1)**, second unnumbered paragraph, as follows:

A child who is at least seven years old by September 15 and who begins a program of competent private instruction and is subject to the annual assessment requirement shall be administered a baseline evaluation for the purposes of obtaining educational data. The baseline evaluation and annual assessment shall be taken by May 1 31.

ITEM 11. Adopt the following **new** paragraph **31.8(2)"e"**:

e. This rule shall not be construed to require or prohibit testing on any subject matter at intervals more frequently or at grade levels other than those set forth in Iowa Code section 256.7(21) "b"(2).

ITEM 12. Amend subrule 31.8(3), introductory paragraph, as follows:

**31.8(3) Portfolio assessment or evaluation.** A parent, guardian, or legal or actual custodian of a child subject to the annual assessment requirement may arrange to have an appropriately licensed Iowa practitioner review a portfolio of evidence of the child's progress annually by May 1 31, subject to the following requirements:

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ITEM 13. Amend subrule 31.9(2) as follows:

**31.9(2) Standardized tests.** The results of a standardized test taken by a child subject to the annual assessment requirements shall be reported by the child's parent, guardian, or legal or actual custodian to the district of residence of the child by ~~June 30~~ August 1 of the year following the school year in which the test was taken. The results shall be submitted either in original form or as a true and correct photocopy of the original form as received from the agency responsible for scoring the test, from which any test results not required under law may be redacted.

ITEM 14. Amend subrule 31.9(3), introductory paragraph, as follows:

**31.9(3) Portfolio assessments.** The results of an assessment of a child's educational portfolio made by a qualified Iowa licensed practitioner shall be submitted by the portfolio evaluator to the child's parent, guardian, or legal or actual custodian, who shall send a copy to the district of residence of the child by ~~June 30~~ August 1 of the year following the school year in which the assessment was done.

ITEM 15. Amend subrule 31.9(4) as follows:

**31.9(4) Report card from accredited correspondence school.** Report cards from an accredited correspondence school shall be submitted by the child's parent, guardian, or legal or actual custodian to the child's district of residence by ~~June 30~~ August 1 of the year following the school year in which the report cards were issued by the accredited correspondence school.

ITEM 16. Amend subparagraph **31.11(2)“a”(1)** as follows:

(1) The public school district shall offer or make available to all resident students receiving independent private instruction an approved course in driver education on an equal basis with students enrolled in the district, as required by Iowa Code section 321.178(1) “c.” ~~as amended by 2013 Iowa Acts, House File 215, section 99.~~

ITEM 17. Amend subrule 31.12(1) as follows:

**31.12(1) Confidentiality of records.** Records maintained by school districts or area education agencies under Iowa Code chapters 299 and 299A ~~as amended by 2013 Iowa Acts, House Files 215 and 454,~~ and this chapter shall be protected under Iowa Code chapter 22, as well as 20 U.S.C. Section 1232g and 34 CFR Part 99. Personally identifiable information about students, as defined in 34 CFR Part 99, shall be disclosed only as permitted by that Part.

ITEM 18. Amend subrule 31.12(2), introductory paragraph, as follows:

**31.12(2) Compulsory attendance actions.** In taking any action under Iowa Code chapters 299 and 299A ~~as amended by 2013 Iowa Acts, House Files 215 and 454,~~ a school district shall consider the requirements of compulsory attendance to be satisfied in the following instances:

ITEM 19. Amend paragraph **31.12(2)“d”** as follows:

*d.* The child is receiving private instruction under subrule 31.2(3) and Iowa Code section 299A.3 ~~as amended by 2013 Iowa Acts, House File 215, section 88,~~ unless the subrule and section do not apply.

ITEM 20. Amend **281—Chapter 31**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 299 and 299A as amended by ~~2013~~ 2021 Iowa Acts, ~~House Files 215 and 454~~ Senate File 546.

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.



**ARC 5870C****EDUCATION DEPARTMENT[281]****Adopted and Filed****Rule making related to terminology**

The State Board of Education hereby amends Chapter 31, “Private Instruction and Dual Enrollment,” Chapter 41, “Special Education,” Chapter 56, “Iowa Vocational Rehabilitation Services,” and Chapter 120, “Early Access Integrated System of Early Intervention Services,” 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, 2020 Iowa Acts, House File 2585.

*Purpose and Summary*

2020 Iowa Acts, House File 2585, made changes to terminology associated with individuals who are deaf or hard of hearing. After consultation with individuals involved in providing service to individuals who are deaf or hard of hearing, as well as individuals who are blind or visually impaired, the Department has adopted the following amendments. These amendments correct outdated terminology. They are not intended to confer any substantive right or conflict with federal law.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5664C**. A public hearing was held on June 22, 2021, at 9:30 a.m. in the ICN Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, with a videoconference option. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

*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

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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 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **31.8(2)“a”** as follows:

a. A child’s parent, guardian, or legal or actual custodian who chooses standardized testing for the purpose of fulfilling the assessment requirements of the law shall select an instrument approved by the department. The department shall publish an approved list of standardized testing instruments each year. In the event that the parent, guardian, or legal or actual custodian of a child subject to the annual assessment requirement wishes to have the child take a standardized test not included on the department’s published list, the parent, guardian, or legal or actual custodian shall request permission of the director of the department of education to use a different test. The decision of the director shall be final. Braille or large print editions of any approved test shall be made available for vision-impaired children. Testing norms are available for ~~vision and hearing impaired~~ children with vision impairments or children who are deaf or hard of hearing.

ITEM 2. Amend paragraph **41.2(1)“c”** as follows:

c. Other state agencies and schools, including but not limited to the departments of human services and public health and state schools and programs for children ~~with deafness or children with blindness~~ who are deaf or hard of hearing or children who are blind or visually impaired.

ITEM 3. Amend subrule 41.29(2) as follows:

**41.29(2) Special rule.** For an individual ~~with deafness or blindness~~ who is deaf or hard of hearing or who is blind or visually impaired, or for an individual with no written language, the mode of communication is that normally used by the individual, such as sign language, ~~Braille~~ braille, or oral communication.

ITEM 4. Amend paragraph **41.34(3)“g”** as follows:

g. “*Orientation and mobility services*” means services provided to children who are blind or visually impaired ~~children~~ by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community, and includes teaching children the following, as appropriate:

(1) to (4) No change.

ITEM 5. Amend subrule 41.50(3) as follows:

**41.50(3) Deaf-blindness.** “Deaf-blindness” means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children ~~with deafness~~ who are deaf or hard of hearing or children with blindness who are blind or visually impaired.

ITEM 6. Amend subrule 41.50(13) as follows:

**41.50(13) Visual impairment.** “Visual impairment,” including blindness, means an impairment in vision that, even with correction, adversely affects a child’s educational performance. The term includes both partial sight and blindness. Individuals who have a medically diagnosed expectation of visual deterioration in adolescence or early adulthood may qualify for instruction in ~~Braille~~ braille reading and writing.

ITEM 7. Amend subrule 41.113(1) as follows:

**41.113(1) Hearing aids.** Each public agency must ensure that hearing aids worn in school by children ~~with hearing impairments, including deafness,~~ who are deaf or hard of hearing are functioning properly.

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ITEM 8. Amend paragraph **41.172(1)“a”** as follows:

*a.* Adopts the National Instructional Materials ~~Accessibility~~ Accessibility Standard (NIMAS) published in the Federal Register on July 19, 2006, (71 Fed. Reg. 41084) for the purposes of providing instructional materials to ~~blind~~ persons who are blind or visually impaired or other persons with print disabilities in a timely manner; and

ITEM 9. Amend rule 281—41.210(256B,34CFR300) as follows:

**281—41.210(256B,34CFR300) Purchase of instructional materials.**

**41.210(1) General.** An AEA, an LEA, or any other public agency, when purchasing print instructional materials, must acquire those instructional materials for children who are blind or visually impaired or for other persons with print disabilities in a manner consistent with subrule 41.210(3) and ensure delivery of those materials in a timely manner to those children.

**41.210(2) Rights and responsibilities of AEA or LEA.** Nothing in this rule relieves the LEA or AEA or any other public agency of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but who are not included under the definition of ~~blind~~ persons who are blind or visually impaired or other persons with print disabilities in 41.210(4) “a” or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner, as defined in 41.172(1) “b.”

**41.210(3) Preparation and delivery of files.** Because the state chooses to coordinate with the NIMAC, an AEA, an LEA, or any other public agency must:

*a.* As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enter into a written contract with the publisher of the print instructional materials to:

(1) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(2) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

*b.* Provide instructional materials to ~~blind~~ persons who are blind or visually impaired or other persons with print disabilities in a timely manner.

**41.210(4) Definitions.** The following definitions apply to this rule and rule 281—41.172(256B,34CFR300), and apply to each state and LEA, regardless of whether the state or LEA chooses to coordinate with the NIMAC:

*a.* “~~Blind persons~~ “Persons who are blind or visually impaired or other persons with print disabilities” means children served under this chapter who may qualify to receive books and other publications produced in specialized formats in accordance with 2 U.S.C. 135a and 36 CFR 701.6. Persons who may receive material in specialized formats include persons who are blind, who have visual disabilities, have certain physical disabilities, or who have reading disabilities resulting from organic dysfunction, as those terms are defined in 36 CFR 701.6(b)(1), and who have obtained certification from a “competent authority,” as defined in 36 CFR 701.6(b)(2).

*b.* “National Instructional Materials Access Center” or “NIMAC” means the center established pursuant to Section 674(e) of the Act.

*c.* “National Instructional Materials Accessibility Standard” or “NIMAS” has the meaning given the term in Section 674(e)(3)(B) of the Act.

*d.* “Print instructional materials” has the meaning given the term in Section 674(e)(3)(C) of the Act.

*e.* “Specialized formats” has the meaning given the term in Section 674(e)(3)(D) of the Act.

ITEM 10. Amend subrule 41.322(5) as follows:

**41.322(5) Use of interpreters or other action, as appropriate.** The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team

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meeting, including arranging for an interpreter for parents ~~with deafness~~ who are deaf or hard of hearing or whose native language is other than English.

ITEM 11. Amend subparagraph **41.324(1)“b”(3)** as follows:

(3) In the case of a child who is blind or visually impaired, provide for instruction in ~~Braille~~ braille and the use of ~~Braille~~ braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in ~~Braille~~ braille or the use of ~~Braille~~ braille, that instruction in ~~Braille~~ braille or the use of ~~Braille~~ braille is not appropriate for the child;

ITEM 12. Amend subrule 41.324(6) as follows:

**41.324(6) Rules of construction—instruction in Braille braille.** For an eligible individual for whom instruction in ~~Braille~~ braille is determined to be appropriate, as provided in 41.324(1)“b”(3), that eligible individual is entitled to instruction in ~~Braille~~ braille reading and writing that is sufficient to enable the individual to communicate with the same level of proficiency as an individual of otherwise comparable ability at the same grade level. ~~Braille Instruction in braille reading and writing instruction~~ may only be provided by a teacher ~~licensed at the appropriate grade level~~ with an endorsement to teach individuals ~~with visual impairments~~ who are blind or visually impaired.

ITEM 13. Amend subrule **41.402(3)**, definition of “Audiologist,” as follows:

“*Audiologist*” applies principles, methods and procedures for analysis of hearing functioning in order to plan, counsel, coordinate and provide intervention strategies and services for individuals ~~with deafness or hearing impairments~~ who are deaf or hard of hearing.

ITEM 14. Amend subrule 41.403(2), definition of “Vision assistant,” as follows:

“*Vision assistant*” provides materials in the appropriate medium for use by individuals ~~with visual impairment including blindness~~ who are blind or visually impaired and performs other duties as assigned by the supervising teacher of ~~individuals with visual impairments~~ the visually impaired.

ITEM 15. Adopt the following new rule 281—41.1102(256B,34CFR300):

**281—41.1102(256B,34CFR300) Rule of construction.** Language adopted pursuant to 2020 Iowa Acts, House File 2585, shall be construed in a manner consistent with federal law and shall not be construed to confer any different or greater right or responsibility under this chapter.

ITEM 16. Amend paragraph **56.25(4)“j”** as follows:

*j.* The availability of interpreter and reader services for appellants not familiar with 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.

ITEM 17. Amend paragraph **120.13(3)“k”** as follows:

*k.* Special educators, including teachers of children ~~with hearing impairments (including deafness)~~ who are deaf or hard of hearing and teachers of children with visual impairments (including blindness).

ITEM 18. Amend paragraph **120.602(2)“c”** as follows:

*c.* As needed, provide for interpreters for persons who are deaf or hard of hearing and other necessary services for council members and participants. The council may use funds under this chapter to pay for those services.

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ITEM 19. Adopt the following new rule 281—120.814(34CFR303):

**281—120.814(34CFR303) Rule of construction.** Language adopted pursuant to 2020 Iowa Acts, House File 2585, shall be construed in a manner consistent with federal law and shall not be construed to confer any different or greater right or responsibility under this chapter.

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5867C**

## **EDUCATION DEPARTMENT[281]**

### **Adopted and Filed**

#### **Rule making related to interscholastic athletic contest eligibility**

The State Board of Education hereby amends 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).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 847.

#### *Purpose and Summary*

2021 Iowa Acts, House File 847, makes changes to athletic eligibility for certain transfer situations. This rule making incorporates those changes. This rule making also makes changes in light of current family law practice.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 30, 2021, as **ARC 5746C**. A public hearing was held on July 20, 2021, at 10 a.m. in Room B100, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, with a videoconference option.

One person attended and provided public comment and also provided written comments. Three other individuals provided written comments. All comments requested the Department to expand paragraph 36.15(4)"m" of Item 3 to include nonpublic school students. All commenters wanted a more permissive transfer rule. After consideration, the Department cannot agree to the requests. The language of paragraph 36.15(4)"m" parallels the relevant provision in 2021 Iowa Acts, House File 847. Expansion of the language is a legislative function. For that reason, the Department cannot make the requested change.

No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

#### *Fiscal Impact*

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

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### *Jobs Impact*

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

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

### *Review by Administrative Rules Review Committee*

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

### *Effective Date*

This rule making will become effective on September 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **36.15(3)“a”(1)** as follows:

(1) Upon a contemporaneous change in parental residence, a student is immediately eligible if the student transfers to the new district of residence or to an accredited nonpublic member or associate member school located in the new school district of residence. In addition, if with a contemporaneous change in parental residence, the student had attended an accredited nonpublic member or associate member school immediately prior to the change in parental residence, the student may have immediate eligibility if the student transfers to another accredited nonpublic member or associate member school. For purposes of this subparagraph, a contemporaneous change in parental residence includes a change in a student's residence from the residence of one parent or guardian to the residence of a different parent or guardian.

ITEM 2. Amend subparagraph **36.15(3)“a”(4)** as follows:

(4) Pursuant to Iowa Code section 256.46, a student whose residence changes due to any of the following circumstances is immediately eligible provided the student meets all other eligibility requirements in these rules and those set by the school of attendance:

1. to 8. No change.

9. The child's former school or school district, if located in this state, was unable to participate in varsity interscholastic sports as the result of a decision or implementation of a decision of the school board or superintendent.

ITEM 3. Amend subrule 36.15(4) as follows:

**36.15(4) Open enrollment transfer rule.** A student in grades 9 through 12 whose transfer of schools had occurred due to a request for open enrollment by the student's parent or guardian is ineligible to compete in interscholastic athletics during the first 90 school days of transfer except that a student may participate immediately if the student is entering grade 9 for the first time and did not participate in an interscholastic athletic competition for another school during the summer immediately following eighth grade. The period of ineligibility applies only to varsity level contests and competitions. (“Varsity” means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) If a pupil is declared ineligible for interscholastic athletic contests and athletic competitions in the pupil's district of residence due to the pupil's academic performance, upon participating in open enrollment, in addition to any other period of ineligibility under this rule, the pupil shall be ineligible in the receiving district for the remaining period

EDUCATION DEPARTMENT[281](cont'd)

of ineligibility declared by the district of residence. This period of ineligibility does not apply if ~~the student:~~

- a. ~~Participates~~ The student participates in an athletic activity in the receiving district that is not available in the district of residence; or
- b. ~~Participates~~ The student participates in an athletic activity for which the resident and receiving districts have a cooperative student participation agreement pursuant to rule 281—36.20(280); or
- c. ~~Has~~ The student has paid tuition for one or more years to the receiving school district prior to making application for and being granted open enrollment; or
- d. ~~Has~~ The student has attended in the receiving district for one or more years prior to making application for and being granted open enrollment under a sharing or mutual agreement between the resident and receiving districts; or
- e. ~~Has~~ The student has been participating in open enrollment and ~~whose the student's~~ parents/guardians move out of their district of residence but exercise either the option of remaining in the original open enrollment district or enrolling in the new district of residence. If the student has established athletic eligibility under open enrollment, it is continued despite the parent's or guardian's change in residence; or
- f. ~~Has~~ The student has not been participating in open enrollment, but utilizes open enrollment to remain in the original district of residence following a change of residence of the student's parent(s). If the student has established athletic eligibility, it is continued despite the parent's or guardian's change in residence; or
- g. ~~Obtains~~ The student obtains open enrollment due to the dissolution and merger of the former district of residence under Iowa Code ~~subsection~~ section 256.11(12); or
- h. ~~Obtains~~ The student obtains open enrollment due to the student's district of residence entering into a whole-grade sharing agreement on or after July 1, 1990, including the grade in which the student would be enrolled at the start of the whole-grade sharing agreement; or
- i. ~~Participates~~ The student participates in open enrollment and the parent/guardian is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services; or
- j. ~~Open~~ The student open enrolls from a district of residence that has determined that the student was previously subject to a founded incident of harassment or bullying as defined in Iowa Code section 280.28 while attending school in the district of residence; or
- 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"; or
- l. The board of directors or superintendent of the district of residence issues or implements a decision that results in the discontinuance or suspension of varsity interscholastic sports activities in the district of residence; or
- m. The board of directors of the district of residence and the board of directors of the receiving district both agree to waive the ineligibility period; or
- n. For open enrollment applications approved for the school year beginning July 1, 2021, the student's district of residence had a voluntary diversity plan in effect on January 1, 2021, and applicable to the school year beginning July 1, 2021.

ITEM 4. Adopt the following **new** implementation sentence in **281—Chapter 36**:

These rules are intended to implement Iowa Code sections 256.46, 280.13, and 282.18 and 2021 Iowa Acts, House File 847.

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5872C****EDUCATION DEPARTMENT[281]****Adopted and Filed****Rule making related to technical education funds  
and regional planning partnerships**

The State Board of Education hereby amends Chapter 46, “Career and Technical Education,” 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, 2018 Iowa Acts, House File 648.

*Purpose and Summary*

2018 Iowa Acts, House File 648, changed the way regional planning partnerships receive funding from the Iowa Department of Education. This rule making conforms the funding process to House File 648 and makes modernizing changes to the governance of regional planning partnerships.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5662C**. A public hearing was held on June 22, 2021, at 9 a.m. in the ICN Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, with a videoconference option. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

*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 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **46.9(1)“a”** as follows:

*a.* At the beginning of a fiscal year, the department shall assign to each partnership a portion of the total designated career and technical education funds ~~from which the partnership may claim reimbursement from~~ appropriated to the department. The department shall disburse funds to a partnership following approval of the multiyear plan pursuant to subrule 46.10(2).

ITEM 2. Amend paragraph **46.10(4)“b”** as follows:

*b.* Collect and review all relevant plans required by the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations; career and academic plans required under 281—Chapter 49; and regional labor market, socioeconomic, and demographic information for purposes of facilitating the program review process specified under paragraph 46.10(4)“f” and regional activities specified in the state plan developed under the aforementioned federal Act.

ITEM 3. Rescind paragraph **46.10(6)“a”** and adopt the following **new** paragraph in lieu thereof:

*a.* Staffing and resources to ensure the minimum duties and responsibilities assigned to the regional planning partnership under subrules 46.10(4) and 46.10(5) are satisfactorily executed. The partnership shall ensure adequate staffing and resources are committed to these purposes prior to allocating funds for any use authorized under paragraph 46.10(6)“b.”

ITEM 4. Amend paragraph **46.10(6)“b”** as follows:

*b.* To offer regional career and technical education professional development opportunities; coordinate, maintain, and support a career guidance system pursuant to 281—Chapter 49 and related work-based learning opportunities for students; and purchase career and technical education equipment and curricular resources to include standard classroom consumable supplies directly related to and necessary for the course curriculum, other than basic consumable supplies that will be made into products to be sold or used personally by students, teachers, and other persons. ~~All expenditures on allowable uses specified under this paragraph must conform to the requirements of the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations.~~

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5873C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

**Rule making related to the definition of “dyslexia”**

The State Board of Education hereby amends Chapter 62, “State Standards for Progression in Reading,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

EDUCATION DEPARTMENT[281](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2356.

*Purpose and Summary*

This rule making conforms the definition of “dyslexia” in rule to the definition of “dyslexia” in 2020 Iowa Acts, Senate File 2356.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5663C**. A public hearing was held on June 22, 2021, at 8:30 a.m. in the ICN Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, with a videoconference option. No one attended the public hearing. The Department received one public comment from Decoding Dyslexia Iowa, which was fully in favor of the proposed rule making. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board on August 5, 2021.

*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).

*Effective Date*

This rule making will become effective on September 29, 2021.

The following rule-making action is adopted:

Amend paragraph **62.6(3)“a”** as follows:

*a.* Assists students assessed as persistently at risk in reading to develop the skills to read at grade level. Assistance shall include but not be limited to strategies that formally address dyslexia, when appropriate. For purposes of this paragraph, “dyslexia” means a specific and significant impairment in the development of reading, including but not limited to phonemic awareness, phonics, fluency, vocabulary, and comprehension, that is not solely accounted for by intellectual disability, sensory learning disability or impairment, or lack of appropriate instruction that is neurobiological in origin, is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, and may include difficulties that typically result from a deficit in the phonological component of language

EDUCATION DEPARTMENT[281](cont'd)

that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, as well as secondary consequences such as problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

[Filed 8/5/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5860C**

**LAW ENFORCEMENT ACADEMY[501]**

**Adopted and Filed**

**Rule making related to academy council, terminology, and waivers**

The Iowa Law Enforcement Academy hereby amends Chapter 1, "Organization and Administration," Chapter 3, "Certification of Law Enforcement Officers," Chapter 13, "Telecommunicator Training Standards," and Chapter 16, "Waivers," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 80B.11 and 80B.11C.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389; 2020 Iowa Acts, House File 2585; and 2020 Iowa Acts, Senate File 2373.

*Purpose and Summary*

The Academy has completed a review of 2020 Iowa Acts, House File 2389; 2020 Iowa Acts, House File 2585; and 2020 Iowa Acts, Senate File 2373. This adopted rule making addresses the changes made to the Iowa Code pursuant to this legislation. The adopted amendments to Chapter 1 update how the Academy processes petitions for rule making from the public. The adopted amendments to Chapters 3 and 13 update terminology. The adopted amendments to Chapter 16 update the reporting requirements when the Academy grants a waiver to a rule.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 16, 2021, as **ARC 5689C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Academy on July 21, 2021.

*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.

## LAW ENFORCEMENT ACADEMY[501](cont'd)

*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 Academy Council for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

*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 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.11(4) as follows:

**1.11(4) Academy council consideration.** Upon request by petitioner in the petition, the academy director must schedule a brief and informal meeting between the petitioner and the academy council, a member of the academy council, or a member of the staff of the academy to discuss the petition. The academy council or a member of the academy staff may request the petitioner to submit additional information or argument concerning the petition. Comments may also be solicited from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the academy council by any person.

Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the academy council ~~must, in writing,~~ shall deny the petition in writing on the merits and notify the petitioner of its action and the specific grounds for the denial, or grant the petition and notify the petitioner that it has instituted rule-making proceedings on the subject of the petition. The academy council shall submit the petition and the disposition of the petition to the administrative rules review committee. The petitioner shall be deemed notified of the denial or grant of the petition on the date when the academy council mails or delivers the required notification to the petitioner.

Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the academy council's rejection of the petition.

ITEM 2. Amend paragraph **3.5(7)“a”** as follows:

a. Deaf and hard-of-hearing culture.

ITEM 3. Amend **501—Chapter 13** as follows:

## CHAPTER 13

PUBLIC SAFETY TELECOMMUNICATOR TRAINING STANDARDS

**501—13.1(80B) Telecommunicator Public safety telecommunicator training board.** There is established a public safety telecommunicator training board under the authority of Iowa Code section 7E.3(3) which shall be an advisory board to the director as to matters arising under this chapter and the provisions of Iowa Code sections ~~80B.11(9)~~ 80B.11 and 80B.11C. This board shall consist of a minimum of one representative of and named by each of those organizations and departments listed in Iowa Code section 80B.11C, and such other persons appointed at the discretion of the director. Members of the board shall not be considered to be state employees for the purpose of the board and shall serve without compensation. The board will meet at the call of the director, and may establish such internal procedures as it may deem appropriate, subject to the approval of the director. A chairperson

## LAW ENFORCEMENT ACADEMY[501](cont'd)

and such other officers of the board to be determined by the board shall be selected by majority vote of the board. The board may establish bylaws for its operation.

**501—13.2(80B) Telecommunicator Public safety telecommunicator training.**

**13.2(1) Basic training.** All persons employed primarily as public safety telecommunicators after July 1, 1998, shall successfully complete an approved basic training course within one year of employment. For purposes of this chapter, a public safety telecommunicator is defined as a person who ~~receives~~ serves as a first responder by receiving requests for, or dispatches dispatching requests to, emergency response agencies which include, but are not limited to, law enforcement, fire, rescue, and emergency medical services agencies.

**13.2(2) In-service training requirements for former public safety telecommunicators who return to a public safety telecommunicator position.** Any individual who leaves and then returns to an Iowa public safety telecommunicator position must receive, within one year of the individual's rehiring date, in-service training as follows:

Period Outside Iowa <u>Public Safety</u> Telecommunications	Training Required
6 months to 12 months	8 hours
More than 12 months to 36 months	20 hours
More than 36 months	40 hours

**501—13.3(80B) Basic training.**

**13.3(1) Approved basic training course.** Approved basic training course means a 40-hour course of instruction which has been approved in advance by the Iowa law enforcement academy through the public safety telecommunicator training board, which includes at a minimum the following topics:

- ~~1.~~ a. Introduction to public safety services and the role of the public safety telecommunicator.
- ~~2.~~ b. Human relations and communications skills.
- ~~3.~~ c. 911 systems, communications equipment, terminology.
- ~~4.~~ d. Understanding and taking different types of calls.
- ~~5.~~ e. Basic dispatch/broadcast techniques.
- ~~6.~~ f. Dispatching and managing the response to a call for service.
- ~~7.~~ g. Multiple tasking and prioritization.
- ~~8.~~ h. Liability and legal issues.
- ~~9.~~ i. Resource awareness.
- ~~10.~~ j. Stress management and motivation.

**13.3(2)** No change.

**13.3(3) Agency administrator responsibility.** It shall be the responsibility of agency administrators to ensure that all public safety telecommunicators under ~~their~~ agency administrators' direction receive the training required by these rules.

**13.3(4)** No change.

**501—13.4(80B) Minimum in-service training requirements.**

**13.4(1) In-service training for newly hired public safety telecommunicators.** During each full fiscal year of employment following completion of the required basic training as set forth in subrule 13.3(1), public safety telecommunicators shall complete a minimum of eight hours of in-service training.

**13.4(2) In-service training for incumbents.** During each fiscal year ~~beginning July 1, 1998,~~ currently employed public safety telecommunicators are required to complete a minimum of eight hours of in-service training.

**13.4(3) Required in-service course content.** To qualify as in-service training, the course content must consist of a topic or topics as listed in subrule 13.3(1) or other subject matter approved by the public safety telecommunicator training board.

**13.4(4) Agency responsibility.** Agency administrators shall ensure that all public safety telecommunicators under their direction receive the minimum hours of in-service training required by

## LAW ENFORCEMENT ACADEMY[501](cont'd)

these rules and that current and accurate in-service training records are regularly kept and maintained. The agency administrator shall make these records available for inspection upon request by the director of the Iowa law enforcement academy or the director's designee.

**13.4(5) *In-service training records.*** In-service training records shall include the following data:

*a. to e.* No change.

*f.* The scores, if any, achieved by the public safety telecommunicator to show proficiency in, or understanding of, the subject matter.

**501—13.5(80B) Instructors for basic training courses.**

**13.5(1) *Experience.*** Instructors must have a minimum of two years of public safety telecommunicator experience. This requirement may be modified by the public safety telecommunicator's agency administrator with public safety telecommunicator training board approval in exceptional cases reflecting outstanding education or experience.

**13.5(2)** No change.

**13.5(3) *Training.*** Instructors must have successfully completed an instructor training course consisting of a minimum of 40 hours of instruction or have provided a minimum of 80 hours of public safety telecommunicator instruction within the past two years and can verify same.

**13.5(4)** No change.

**501—13.6(80B) ~~Telecommunicator~~ Public safety telecommunicator status forms furnished to academy.** Within ten days of any of the following occurrences, the academy will be notified by the use of prescribed forms:

1. and 2. No change.

3. Training received by public safety telecommunicators not provided at or by personnel of the Iowa law enforcement academy.

These rules are intended to implement Iowa Code sections ~~80B.11(9)~~ 80B.11 and 80B.11C.

ITEM 4. Amend rule **501—16.1(17A,80B)**, definition of "Waiver," as follows:

*"Waiver" or "~~variance~~"* means action by the Iowa law enforcement academy council which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term "waiver" shall include both a "waiver" and a "variance."~~

ITEM 5. Amend rule 501—16.10(17A,80B) as follows:

**501—16.10(17A,80B) Public availability.** All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code ~~section~~ sections 17A.3 and 17A.9A. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information that the council is authorized or required to keep confidential. The council may accordingly redact confidential information from petitions or orders prior to public inspection.

ITEM 6. Amend rule 501—16.11(17A,80B) as follows:

**501—16.11(17A,80B) ~~Summary reports~~ Submission of waiver information.** In compliance with Iowa Code section 17A.9A, ~~semiannually~~ within 60 days of granting or denying a waiver, the council shall ~~prepare a summary report identifying~~ make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the council's actions on waiver requests. If practicable, the ~~report~~ submission shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability

LAW ENFORCEMENT ACADEMY[501](cont'd)

~~of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

[Filed 7/28/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5861C**

## **MEDICINE BOARD[653]**

**Adopted and Filed**

### **Rule making related to medical cannabidiol**

The Board of Medicine hereby amends Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 272C.3.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 124E.2.

#### *Purpose and Summary*

This rule making implements 2020 Iowa Acts, House File 2589, which amended Iowa Code section 124E.2 to make changes to the definitions of "debilitating medical condition" and "medical cannabidiol." Specifically, one of the conditions listed under "debilitating medical condition," Iowa Code section 124E.2(2)"i," was amended to read "chronic pain." The legislation also amended the definition to add a condition, "post-traumatic stress disorder." The definition of "medical cannabidiol," Iowa Code section 124E.2(10), was amended to remove the reference to the 3 percent tetrahydrocannabinol level limit.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5668C**. A virtual public hearing was held on June 22, 2021, at 9 a.m. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Board on July 23, 2021.

#### *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.

MEDICINE BOARD[653](cont'd)

*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 29, 2021.

The following rule-making action is adopted:

Amend subrule **13.15(1)**, definitions of “Debilitating medical condition” and “Medical cannabidiol,” as follows:

“*Debilitating medical condition*” means any of the following:

1. to 8. No change.
9. ~~Untreatable~~ Chronic pain.
10. No change.
11. Severe, intractable ~~pediatric~~ autism with self-injurious or aggressive behaviors.
12. No change.
13. Post-traumatic stress disorder.

“*Medical cannabidiol*” means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof ~~that has a tetrahydrocannabinol level of no more than 3 percent~~ and that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and adopted by the department pursuant to rule.

[Filed 8/3/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5863C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Adopted and Filed**

**Rule making related to telehealth**

The Board of Speech Pathology and Audiology hereby adopts new Chapter 301, “Practice of Speech Pathologists and Audiologists,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 147.76.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 154F.

*Purpose and Summary*

The adopted chapter provides the minimum standards of care for speech pathologists and audiologists when they are providing services during a telehealth appointment. The adopted rule making adds a new Chapter 301 and instructs that when a speech pathologist or audiologist provides services to a patient



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

remotely, the services must be provided in accordance with the new chapter in order to adequately inform and protect the patient during the telehealth appointment.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 7, 2021, as **ARC 5556C**. A virtual public hearing was held on April 28, 2021, at 9 a.m. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on July 16, 2021.

*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 645—Chapter 18.

*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 29, 2021.

The following rule-making action is adopted:

Adopt the following **new** 645—Chapter 301:

CHAPTER 301  
PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

**645—301.1(147) Telehealth visits.** A licensee may provide speech pathology or audiology services to a patient utilizing a telehealth visit if the services are provided in accordance with the following:

**301.1(1)** “Telehealth visit” means the provision of speech pathology or audiology services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location during the appointment.

**301.1(2)** A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an appointment or to communicate with a patient between appointments.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**301.1(3)** A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person speech pathology or audiology services. A licensee shall not utilize a telehealth visit if the standard of care for the particular speech pathology or audiology service cannot be met using technology.

**301.1(4)** Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

*a.* The risks and limitations of the use of technology to provide speech pathology or audiology services;

*b.* The potential for unauthorized access to protected health information; and

*c.* The potential for disruption of technology during a telehealth visit.

**301.1(5)** A licensee shall only provide speech pathology or audiology services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

**301.1(6)** A licensee shall identify in the clinical record when speech pathology or audiology services are provided utilizing a telehealth visit.

This rule is intended to implement Iowa Code chapters 147 and 154F.

[Filed 8/3/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5862C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Adopted and Filed**

**Rule making related to telemedicine**

The Board of Physician Assistants hereby amends Chapter 327, "Practice of Physician Assistants," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 147.76.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 147, 148C and 272C.

*Purpose and Summary*

This rule making establishes standards of practice for physician assistants who provide patient care through telemedicine. The amended rule establishes the standard of care and requires HIPAA-compliant technology, as well as imposes other requirements to ensure the patient's confidential health information is secure. The new rule aligns with the Board of Medicine rules governing telemedicine, which will ensure that physician assistants and their supervising physicians will operate under uniform standards and do not need to worry about any differing or potentially conflicting telemedicine standards when coordinating remote care.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 7, 2021, as **ARC 5555C**. A virtual public hearing was held on April 27, 2021, at 10:30 a.m. No one attended the public hearing. No public comments were received.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Upon Board review for adoption, one nonsubstantive change was made from the Notice. The Board wanted to expressly clarify that these rules exclusively establish the standard of care for audiovisual telemedicine visits, and these rules do not apply to telephone conversations with patients. The Board believes this extra clarification is a nonsubstantive change and merely explains what was originally intended to avoid confusion by practitioners or the public.

*Adoption of Rule Making*

This rule making was adopted by the Board on July 28, 2021.

*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 645—Chapter 18.

*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 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 645—327.9(147,148C,272C):

**645—327.9(147,148C,272C) Standards of practice—telemedicine.** This rule establishes standards of practice for the delegated provision of telemedicine services.

**327.9(1) Telemedicine, generally.**

*a.* Technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.

*b.* Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.

*c.* Licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.

*d.* Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

**327.9(2) Definitions.** For the purposes of this rule:

“*Asynchronous store-and-forward transmission*” means the collection of a patient’s relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

“*Board*” means the Iowa board of physician assistants.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*“In-person encounter”* means that the physician assistant and the patient are in the physical presence of each other and are in the same physical location during the physician assistant-patient encounter.

*“Licensee”* means a physician assistant licensed by the board.

*“Telemedicine”* means the practice of medicine using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine, for the purposes of this rule establishing standards of practice, does not include the provision of medical services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

*“Telemedicine technologies”* means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

**327.9(3) Practice guidelines.** A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

**327.9(4) License required.** A physician assistant who uses telemedicine in the diagnosis and treatment of a patient located in Iowa shall hold an active Iowa physician assistant license consistent with state and federal laws. Nothing in this rule shall be construed to supersede the exceptions to licensure contained in rule 645—326.17(148C).

**327.9(5) Standards of care and professional ethics.** A licensee who uses telemedicine shall be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

**327.9(6) Scope of practice.** A licensee who uses telemedicine shall ensure that the services provided are consistent with the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure, and certification.

**327.9(7) Identification of patient and physician assistant.** A licensee who uses telemedicine shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

**327.9(8) Physician assistant-patient relationship.**

*a.* A licensee who uses telemedicine shall establish a valid physician assistant-patient relationship with the person who receives telemedicine services. The physician assistant-patient relationship begins when:

- (1) The person with a health-related matter seeks assistance from a licensee;
- (2) The licensee agrees to undertake diagnosis and treatment of the person; and
- (3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician assistant and the person.

*b.* A valid physician assistant-patient relationship may be established by:

- (1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;
- (2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient’s care; or

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

**327.9(9) *Medical history and physical examination.*** Generally, a licensee shall perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine shall interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

**327.9(10) *Non-physician assistant health care providers.*** If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a non-physician assistant health care provider, the licensee shall:

*a.* Ensure that systems are in place to ensure that the non-physician assistant health care provider is qualified and trained to provide that service within the scope of the non-physician assistant health care provider's practice;

*b.* Ensure that the licensee is available in person or electronically to consult with the non-physician assistant health care provider, particularly in the case of injury or an emergency.

**327.9(11) *Informed consent.*** A licensee who uses telemedicine shall ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

**327.9(12) *Coordination of care.*** A licensee who uses telemedicine shall, when medically appropriate, identify the medical home or treating clinician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee shall provide a copy of the medical record to the patient's medical home or treating clinician(s).

**327.9(13) *Follow-up care.*** A licensee who uses telemedicine shall have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

**327.9(14) *Emergency services.*** A licensee who uses telemedicine shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

**327.9(15) *Medical records.*** A licensee who uses telemedicine shall ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician assistant-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee shall note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee shall ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee shall ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

**327.9(16) *Privacy and security.*** A licensee who uses telemedicine shall ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act (HIPAA) to ensure that all patient communications and records are secure and remain confidential.

*a.* Written protocols shall be established that address the following:

(1) Privacy;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (2) Health care personnel who will process messages;
- (3) Hours of operation;
- (4) Types of transactions that will be permitted electronically;
- (5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;
- (6) Archiving and retrieval; and
- (7) Quality oversight mechanisms.

b. The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols shall include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

**327.9(17) *Technology and equipment.*** Broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine shall comply with the following requirements:

a. The technology and equipment utilized in the provision of telemedicine services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;

b. The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. The technology and equipment utilized in the provision of telemedicine services must be compliant with the HIPAA.

**327.9(18) *Disclosure and functionality of telemedicine services.*** A licensee who uses telemedicine shall ensure that the following information is clearly disclosed to the patient:

- a. Types of services provided;
- b. Contact information for the licensee;
- c. Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;
- d. Limitations in the drugs and services that can be provided via telemedicine;
- e. Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;
- f. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);
- g. Appropriate uses and limitations of the technologies, including in emergency situations;
- h. Uses of and response times for emails, electronic messages and other communications transmitted via telemedicine technologies;
- i. To whom patient health information may be disclosed and for what purpose;
- j. Rights of patients with respect to patient health information; and
- k. Information collected and passive tracking mechanisms utilized.

**327.9(19) *Patient access and feedback.*** A licensee who uses telemedicine shall ensure that the patient has easy access to a mechanism for the following purposes:

- a. To access, supplement and amend patient-provided personal health information;
- b. To provide feedback regarding the quality of the telemedicine services provided; and
- c. To register complaints. The mechanism shall include information regarding the filing of complaints with the board.

**327.9(20) *Financial interests.*** Advertising or promotion of goods or products from which the licensee receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee should not benefit financially from providing such links or from the

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

**327.9(21)** *Circumstances where the standard of care may not require a licensee to personally interview or examine a patient.* Under the following circumstances, whether or not such circumstances involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

- a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;
- b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;
- c. Call situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- d. Cross-coverage situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- e. Emergency situations in which the life or health of the patient is in imminent danger;
- f. Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- g. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and
- h. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, hospice settings, and correctional facilities.

**327.9(22)** *Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited.* Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician assistant-patient relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 327.9(21).

ITEM 2. Amend **645—Chapter 327**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 147.10 and 147.107 and chapters 148C and 272C.

[Filed 8/3/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5865C**

## UTILITIES DIVISION[199]

Adopted and Filed

**Rule making related to regulation of municipal electric utilities and electric cooperatives**

The Utilities Board hereby adopts new Chapter 27, "Regulation of Electric Cooperatives and Municipal Electric Utilities Under Iowa Code Chapter 476," Iowa Administrative Code.

UTILITIES DIVISION[199](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 476.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.1A, 476.1B and 476.2.

*Purpose and Summary*

The purpose of this rule making is to adopt a separate chapter of Utilities Board rules that create requirements to implement Board jurisdiction over electric cooperatives and municipal electric utilities. Current Board rules over these utilities are in 199—Chapter 20, and the electric cooperatives and municipal electric utilities requested that the Board adopt a separate chapter.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5281C**. The Board conducted an oral presentation on February 4, 2021, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The Iowa Association of Electric Cooperatives (IAEC), the Iowa Association of Municipal Utilities (IAMU), the Office of Consumer Advocate (OCA), and Iowa Legal Aid filed comments. IAEC, IAMU, and OCA expressed different opinions on the legislation passed in 2018 that addressed the Board jurisdiction over electric cooperatives and municipal electric utilities. The comments were about the limitations placed on the Board's jurisdiction. IAMU especially argued that the Board's jurisdiction is very limited, while OCA argued that the Board's jurisdiction was only limited in specific areas. IAEC took a different position than IAMU because the statutory requirements are different for electric cooperatives than municipal electric utilities.

In addition to the written comments filed in response to the Notice, the Board allowed the public to file additional written comments before and after the oral presentation. The Board also held a workshop to allow for a more in-depth discussion of some of the issues in the rules. The written comments and comments from the workshop were similar to those made at the oral presentation. The Board also sent out a draft Adopted and Filed document with the rules the Board proposed to adopt. IAEC, IAMU, OCA, and Legal Aid commented on the draft Adopted and Filed rules.

The Board issued an order adopting new rules on August 3, 2021. The order is available on the Board's electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under Docket No. RMU-2020-0027.

The rules have been significantly revised since publication of the Notice based upon written comments and the discussions at the oral presentation and workshop. Through review of comments made by IAMU and OCA, the Board has been able to narrow the focus of the rules to those specific safety standards that a municipal electric utility will be required to follow. The revisions from the Notice reflect those revisions made based upon the comments.

*Adoption of Rule Making*

This rule making was adopted by the Board on August 3, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. The rules that are adopted in the new Chapter 27 were already applicable to municipal electric utilities pursuant to 199—Chapter 20.

*Jobs Impact*

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



UTILITIES DIVISION[199](cont'd)

*Waivers*

No waiver provision is included in the amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

*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 29, 2021.

The following rule-making action is adopted:

Adopt the following **new** 199—Chapter 27:

## CHAPTER 27

REGULATION OF ELECTRIC COOPERATIVES AND MUNICIPAL ELECTRIC UTILITIES  
UNDER IOWA CODE CHAPTER 476

**199—27.1(476) General information.** Iowa Code section 476.2(1) provides that the Iowa utilities board shall have authority to establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers provided for in Iowa Code chapter 476 or in the board's rules.

**27.1(1) Application of rules.** The rules shall apply to electric cooperatives and municipal electric utilities operating within the state of Iowa subject to Iowa Code sections 476.1A and 476.1B, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board that are in conflict with these rules.

**27.1(2) Regulation of electric cooperatives.** Iowa Code section 476.1A provides that electric cooperatives are not subject to the regulation of the board, except for regulatory action pertaining to the following:

- a. Assessment of fees for the support of the board and the office of consumer advocate pursuant to Iowa Code section 476.10.
- b. Safety and engineering standards for equipment, operations, and procedures.
- c. Assigned service areas.
- d. Pilot projects of the board.
- e. Assessment of fees for the support of the Iowa energy center and the center for global and regional environmental research. This paragraph is rescinded July 1, 2022, unless extended by statute.
- f. Filing of alternative energy purchase program plans with the board, and offering such programs to customers, pursuant to Iowa Code section 476.47.
- g. Disconnection of service and winter moratorium pursuant to Iowa Code sections 476.20(1) through 476.20(4).
- h. Discrimination against renewable energy pursuant to Iowa Code section 476.21.
- i. Civil penalties pursuant to Iowa Code section 476.51.
- j. Annual energy costs to be provided pursuant to Iowa Code section 476.56.
- k. Energy-efficient lighting pursuant to Iowa Code section 476.62.
- l. Customer contribution fund pursuant to Iowa Code section 476.66.
- m. Certification requirements for electric power generation and transmission pursuant to Iowa Code chapter 476A, to the extent applicable.

## UTILITIES DIVISION[199](cont'd)

*n.* Franchise requirements for electric transmission lines pursuant to Iowa Code chapter 478, to the extent applicable.

*o.* Prohibition against the making or granting of any unreasonable preferences or advantages as to rates or services to any person or subjecting any person to any unreasonable prejudice or disadvantage pursuant to Iowa Code section 476.1A(3).

**27.1(3) Regulation of municipal electric utilities.** Iowa Code section 476.1B provides that municipal electric utilities are not subject to regulation by the board under Iowa Code chapter 476 unless otherwise specifically provided by statute, except for regulatory action pertaining to the following:

- a.* Assessment of fees for the support of the board and the office of consumer advocate.
- b.* Safety standards.
- c.* Assigned areas of service as set forth in Iowa Code sections 476.22 through 476.26.
- d.* Civil penalties pursuant to Iowa Code section 476.51.
- e.* Disconnection of service in Iowa Code sections 476.20(1) through 476.20(4).
- f.* Encouragement of alternative energy production facilities pursuant to Iowa Code sections 476.41 through 476.45.
- g.* Annual energy costs to be provided pursuant to Iowa Code section 476.56.
- h.* Energy-efficient lighting pursuant to Iowa Code section 476.62.
- i.* Customer contribution fund pursuant to Iowa Code section 476.66.
- j.* Assessment of fees for the support of the Iowa energy center and the center for global and regional environmental research. This paragraph is rescinded July 1, 2022, unless extended by statute.
- k.* Electric power agencies, as defined in Iowa Code chapter 28F and section 390.9, that include as a member a city or municipally owned utility that builds transmission facilities after July 1, 2001, are subject to applicable transmission reliability rules or standards adopted by the board for those facilities.
- l.* Filing alternative energy purchase program plans with the board, and offering such programs to customers pursuant to Iowa Code section 476.47.
- m.* Iowa Code chapters 476A and 478, to the extent applicable.

**27.1(4) Definitions.** The following words and terms, when used in these rules, shall have the meanings indicated below:

“*Board*” means the utilities board.

“*Capacity*” means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts.

“*Complaint*,” as used in these rules, means a statement or question by any person, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or obligation of an electric cooperative or municipal electric utility.

“*Customer*” means any person, firm, association, or corporation; any agency of the federal, state or local government; or any legal entity responsible by law for payment for the electric service or heat from the electric cooperative or municipal electric utility.

“*Delinquent*” or “*delinquency*” means an account for which a service bill or service payment agreement bill has not been paid in full on or before the last day for timely payment.

“*Distribution line*” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Electric plant*” includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

“*Electric service*” means furnishing electricity to the public for compensation for use as heat, light, power, or energy.

“*Energy*” means electric energy measured in kilowatt hours.

“*Engineering standards*” means standards adopted by the American National Standards Institute (ANSI), or the Institute of Electrical and Electronics Engineers (IEEE), Rural Utilities Service (RUS), or similar type of engineering organizations or engineering standards adopted by the board.

## UTILITIES DIVISION[199](cont'd)

“*Major event*” means when an event results in extensive physical damage to transmission or distribution facilities within an electric cooperative or municipal electric utility’s operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours, or
5. A regional transmission organization or independent system operator declares an energy emergency alert that the organization can no longer provide expected energy requirements or has lower than required reserves, implements procedures up to shedding load, declares a maximum generation warning, declares conservative operations, or calls a maximum generation alert event in compliance with North American Electric Reliability Corporation requirements.

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Power*” means electric power measured in kilowatts.

“*Safety standard*” means a set of policies, procedures, or specifications formally adopted by a governmental agency, an accrediting agency, or standards developing organization, the purpose of which is to ensure the safe generation, transmission, or distribution of electric energy to customers or electric utilities, including electric cooperatives and municipal electric utilities. “*Safety standard*” includes, but is not limited to, the safety standards in rule 199—27.8(476), the electrical safety code in 199—Chapter 25, the National Electrical Safety Code, the American National Standards Institute, and the Institute of Electrical and Electronics Engineers.

“*Secondary line*” means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Service limitation*” means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter device on the customer’s meter.

“*Tariff*” means, for the purposes of this chapter, the service classifications, rules, procedures, and policies filed with and approved by the board.

“*Timely payment*” means a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“*Transmission line*” means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

**27.1(5) Abbreviations.** The following abbreviations may be used in this chapter where appropriate:

ANSI—American National Standards Institute, [www.ansi.org](http://www.ansi.org).

IEEE—Institute of Electrical and Electronics Engineers, [www.ieee.org](http://www.ieee.org).

NESC—National Electrical Safety Code.

NFPA—National Fire Protection Association, [www.nfpa.org](http://www.nfpa.org).

RUS—United States Department of Agriculture Rural Utilities Service, [www.rd.usda.gov/about-rd/agencies/rural-utilities-service](http://www.rd.usda.gov/about-rd/agencies/rural-utilities-service).

**27.1(6) Electric cooperative service rules tariffs.** Electric cooperatives subject to the board’s jurisdiction under Iowa Code section 476.1A shall maintain tariffs which are consistent with the rules in this chapter and shall file those tariffs with the board for approval.

a. Electric cooperatives shall file those portions of their tariff or tariff pages regarding matters over which the board has jurisdiction with strikethroughs for the language deleted and underlining of the language that is added.

## UTILITIES DIVISION[199](cont'd)

*b.* If an electric cooperative chooses to file a revised tariff with provisions which are not subject to board jurisdiction, the electric cooperative shall identify which provisions are jurisdictional either in the cover letter or elsewhere in the filing. The provisions that are not jurisdictional need not include strikeouts of deleted language and underlining of new language.

*c.* An electric cooperative association may file a model tariff for board approval that may be adopted by an electric cooperative with any revisions the electric cooperative proposes to the model tariff.

*d.* An electric cooperative may file a revised tariff adopting the model tariff approved by the board. The electric cooperative shall include the docket number and date of board approval with the revised tariff.

*e.* Electric cooperatives shall make tariffs filed with the board available to all customers.

**27.1(7) *Municipal electric utilities service rules.*** Municipal electric utilities shall not be required to file tariffs with the board implementing the provisions in this chapter; however, municipal utilities shall adopt service rules or other legally enforceable provisions that are consistent with the provisions in this chapter.

*a.* A municipal electric utility shall make rules or other legally enforceable provisions implementing the requirements of this chapter available to all customers.

*b.* A municipal electric utility may adopt a model ordinance prepared by a municipal utility association that has been approved by the board.

*c.* A municipal electric utility shall provide a copy of its ordinance, or other legally enforceable document, that implements the rules in this chapter within 15 days of a request from the board.

**27.1(8) *Notice of rate increases.*** Electric cooperatives and municipal electric utilities shall provide notice of rate increases to all affected customers at least 30 days in advance of the rate increase taking effect. The notice may be sent by U.S. mail or electronically.

**199—27.2(476) Assigned area of service and maps.**

**27.2(1) *Service areas.*** Service areas are defined by the boundaries on service area maps. Electronic maps are available for viewing during regular business hours at the board's offices. Maps are also available for viewing on the board's website. These service area maps are the official electric service territory maps as required pursuant to Iowa Code section 476.24 and shall be presumed to be accurate; however, the presumption may be rebutted by filing a request with the board.

**27.2(2) *Modification of service area and answers.***

*a.* An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion. The board may grant a modification if the modification promotes the public interest. In determining whether the modification is in the public interest, the board will consider the factors described in Iowa Code section 476.25(1) and any other relevant factors.

*b.* Any electric cooperative or municipal electric utility may file a petition for modification of service area, which shall contain: (1) a legal description of the service area desired, (2) a designation of the utilities involved in each boundary section, (3) a justification for the proposed service area modification, and (4) in addition to the PDF (Portable Document Format) map required in 199—subrule 14.8(1), an electronic file of the proposed service area boundaries, in a format designated by the board, as described on the electronic filing system (EFS) homepage under EFS filing standards. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with paragraph 27.2(4) "a" shall be attached to the petition as an exhibit.

*c.* Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.

*d.* An answer to a petition for a service area modification shall comply with 199—subrule 7.9(2).

*e.* Electric cooperatives and municipal electric utilities may agree with other electric utilities to service territory modifications by contract pursuant to Iowa Code section 476.25(2). Contracts to be

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enforceable require board approval. The board shall approve a contract if the board finds that the contract will eliminate or avoid unnecessary duplication of facilities, will provide adequate electric service to all areas and customers affected, will promote the efficient and economical use and development of the electric systems of the contracting utilities, and is in the public interest.

**27.2(3) Certificate of authority.** Any electric cooperative or municipal electric utility requesting a service territory modification pursuant to subrule 27.2(2) which would result in service to a customer by a public utility other than the public utility currently serving the customer shall also petition the board for a certificate of authority under Iowa Code section 476.23. Unless voluntarily agreed otherwise, the electric cooperative or municipal electric utility shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

**27.2(4) Maps.**

*a.* Each electric cooperative and municipal electric utility shall maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps shall include the exact location of the following:

- (1) Generating stations, with capacity designation.
- (2) Purchased power supply points, with maximum contracted capacity designation.
- (3) Purchased power metering points if located at other than power delivery points.
- (4) Transmission lines, with size and type of conductor designation and operating voltage designation.
- (5) Transmission-to-transmission voltage transformation substations, with transformer voltage and capacity designation.
- (6) Transmission-to-distribution voltage transformation substations, with transformer voltage and capacity designation.
- (7) Distribution lines, with size and type of conductor designation, phase designation and voltage designation.
- (8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.
- (9) All current information required in Iowa Code section 476.24(1).
- (10) All county boundaries and county names.
- (11) Natural and artificial lakes which cover more than 50 acres and all rivers.
- (12) Any additional information required by the board.

*b.* All maps, except those deemed confidential by the board, shall be available for examination at the designated offices of the electric cooperative or municipal electric utility during regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

**199—27.3(476) Customer relations.****27.3(1) Notification to customers by bill insert.**

*a.* Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7300, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov)."

*b.* The bill insert or notice shall be provided to customers at least annually. Any utility which does not use the standard statement described in this subrule shall file its proposed statement for board approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information required in paragraph 27.3(1) "a."

**27.3(2) Payment agreements.**

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*a. Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the electric cooperative or municipal electric utility for residential utility service and is not in default of a payment agreement with the electric cooperative or municipal electric utility, an electric cooperative or municipal electric utility shall offer the customer an opportunity to enter into a reasonable payment agreement. The offer of a payment agreement shall be made prior to disconnection. The electric cooperative or municipal electric utility is not required to offer a customer who has been disconnected from service a payment agreement consistent with these rules, unless the utility did not comply with these rules prior to disconnection.

*b. Reasonableness.* Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The electric cooperative or municipal electric utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

*c. Terms of payment agreements.*

(1) First payment agreement. The electric cooperative or municipal electric utility shall offer the following conditions to customers who have received a disconnection notice and are not in default of a payment agreement:

1. For customers who received a disconnection notice in conformance with these rules, the electric cooperative or municipal electric utility shall offer an agreement with at least 12 even monthly payments. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties. A customer shall not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement, and the customer will not be required to pay a portion of the delinquent amount to enter into a payment agreement.

2. The agreement shall also include a provision for payment of the current amount owed by the customer.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

5. The electric cooperative or municipal electric utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When the customer makes the agreement over the telephone or through electronic transmission, the electric cooperative or municipal electric utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document shall be considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.

8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as stated in the written document. The document stating the terms and conditions of the agreement shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

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(2) Second payment agreement. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for a term at least as long as the term of the first payment agreement.

2. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up front as a condition of entering into the second payment agreement.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The electric cooperative or municipal electric utility may offer additional payment agreements to the customer.

*d. Refusal by electric cooperative or municipal electric utility.* A customer may offer the electric cooperative or municipal electric utility a proposed payment agreement. If the electric cooperative or municipal electric utility and the customer do not reach an agreement, the electric cooperative or municipal electric utility may refuse the offer orally, but the electric cooperative or municipal electric utility must provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered provided to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

*e. Customer request for assistance.* A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

**27.3(3) Bill payment terms.** The bill shall be considered provided to the customer when deposited in the U.S. mail with postage prepaid or sent by electronic mail to the customer, if agreed to by the customer. If delivery is by other than U.S. mail, the bill shall be considered provided when delivered to the last-known address of the party responsible for payment, or to the last-known electronic mail address of the customer. There shall not be less than 20 days between the providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals may not be considered delinquent less than 5 days from the date the bill is provided, and a late payment charge may not be assessed if payment is received within 20 days of the date the bill is provided.

*a.* The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month shall be changeable for cause; such as, but not limited to, 15 days from the approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

*b.* In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

*c.* If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

*d.* Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that

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the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

**27.3(4) *Customer records.*** The electric cooperative or municipal electric utility shall retain records not less than five years. Records for each customer shall show where applicable:

- a. kWh meter reading.
- b. kWh consumption.
- c. kW meter reading.
- d. kW measured demand.
- e. kW billing demand.
- f. Total amount of bill.

**27.3(5) *Adjustment of bills for meter error.*** Electric cooperatives and municipal electric utilities shall establish meter testing standards and procedures for customers who have complaints about the accuracy of the customer's meter. The meter testing standards shall be made available to a customer upon request.

**199—27.4(476) Disconnection of service.**

**27.4(1) *Disconnection procedures and notice.*** Electric cooperatives and municipal electric utilities shall only disconnect service to customers in compliance with the following procedure and requirements:

- a. Service may be disconnected without notice:
  - (1) In the event of a condition on the customer's premises determined by the utility to be hazardous.
  - (2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.
  - (3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.
  - (4) In the event of unauthorized use.

b. The electric cooperative or municipal electric utility shall give written notice of pending disconnection except as specified in paragraph 27.4(1) "a." The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered provided when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall not be less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals shall not be less than 24 hours after the notice is posted at the service premises.

c. One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

d. Service may be disconnected after proper notice:

- (1) For violation of or noncompliance with the utility's rules.
- (2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

e. Service may be disconnected after proper notice for nonpayment of a bill or deposit provided that the electric cooperative or municipal electric utility has complied with the following provisions:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities set out in subrule 27.4(2). Customers billed more



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frequently than monthly shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each electric cooperative or municipal electric utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) If the electric cooperative or municipal electric utility has adopted a service limitation policy, the following paragraph shall be appended to the end of the standard form of the summary of rights and responsibilities:

Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. Between November 1 and April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and a copy of the rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the electric cooperative or municipal electric utility shall make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected. The electric cooperative or municipal electric utility shall make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the electric cooperative or municipal electric utility to contain residential units affected by disconnection shall be posted at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

If the customer has received notice of disconnection and has a dispute concerning a bill for electric service, the electric cooperative or municipal electric utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. An electric cooperative or municipal electric utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

*f.* Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

*g.* A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the electric cooperative or municipal electric utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

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*h.* Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises.

(1) An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

(2) The electric cooperative or municipal electric utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

(3) Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection.

*i.* Winter energy assistance (November 1 through April 1). If the electric cooperative or municipal electric utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the electric cooperative or municipal electric utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the electric cooperative or municipal electric utility by the community action agency as eligible for either the low-income home energy assistance program or the weatherization assistance program.

*j.* Military service deployment. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

*k.* Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The electric cooperative or municipal electric utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

*l.* An electric cooperative or municipal electric utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

*m.* The electric cooperative or municipal electric utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. An electric cooperative or municipal electric utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

**27.4(2) Notice of customer rights and responsibilities.** The standard form of the summary of the rights and responsibilities to be provided to customers is set out below, and all electric cooperatives and municipal electric utilities providing electric service shall provide the notice with all disconnection

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notices. If an electric cooperative or municipal electric utility does not use the standard form as set out below, the electric cooperative or municipal electric utility shall submit to the board for approval an alternative notice. The standard customer rights and responsibilities notice is as follows:

**CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT**

**1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?**

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the electric cooperative or municipal electric utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

**2. How do I go about making a reasonable payment plan? (Residential customers only)**

a. Contact the electric cooperative or municipal electric utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility shall offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your electric service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

**3. How do I apply for low-income energy assistance? (Residential customers only)**

a. Applications are taken at your local community action agency. If you are unsure where to apply, dial 2-1-1 or 1-800-244-7431, or visit [humanrights.iowa.gov/dcaa](http://humanrights.iowa.gov/dcaa). To prevent disconnection, you must contact the utility prior to disconnection of your service.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

**4. What if someone living at the residence has a serious health condition? (Residential customers only)**

Contact the electric cooperative or municipal electric utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your electric service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the electric cooperative's or municipal electric utility's office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your electric service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

**5. What should I do if I believe my bill is not correct?**

You may dispute your bill. You must tell the electric cooperative or municipal electric utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the electric cooperative or municipal electric utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute (see #9 below).

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**6. When can the electric cooperative or municipal electric utility shut off my electric service because I have not paid my bill?**

a. Your electric cooperative or municipal electric utility can shut off service between the hours of 6 a.m. and 2 p.m. Monday through Friday.

b. The electric cooperative or municipal electric utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The electric cooperative or municipal electric utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The electric cooperative or municipal electric utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the electric cooperative or municipal electric utility cannot shut off your service from November 1 through April 1. However, you will still owe the electric cooperative or municipal electric utility for the service used during this time.

f. The electric cooperative or municipal electric utility will not shut off your service if you have notified the electric cooperative or municipal electric utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, electric service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the electric cooperative or municipal electric utility must be informed of the deployment prior to disconnection. However, you will still owe the electric cooperative or municipal electric utility for service used during this time.

**7. How will I be told the electric cooperative or municipal electric utility is going to shut off my service?**

a. You must be given a written notice at least 12 days before the electric service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The electric cooperative or municipal electric utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the electric cooperative or municipal electric utility cannot reach you by telephone or in person, the electric cooperative or municipal electric utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your electric service will be shut off.

**8. If service is shut off, when will it be turned back on?**

a. The electric cooperative or municipal electric utility will turn your service back on if you pay the whole amount you owe.

b. If you make your payment during regular business hours, or by 7 p.m. for electric cooperatives or municipal electric utilities permitting such payment or other arrangements after regular business hours, the electric cooperative or municipal electric utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The electric cooperative or municipal electric utility may charge you a fee to turn your service back on. That fee may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

**9. Is there any other help available besides my electric cooperative or municipal electric utility?**

If the electric cooperative or municipal electric utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email at [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov). Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid and may contact Iowa Legal Aid at 1-800-532-1275.

**27.4(3)** *When disconnection is prohibited.*

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a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

**27.4(4) Servicing of utilization control equipment.** Each electric cooperative or municipal electric utility shall service and maintain any equipment it uses on a customer's premises and shall correctly set and keep in proper adjustment any utility-owned thermostats, clocks, relays, time switches or other devices which control the customer's service in accordance with the provisions in the utility's schedules.

**27.4(5) Customer complaints.** Complaints concerning the practices, facilities or service of the electric cooperative or municipal electric utility shall be investigated promptly and thoroughly. The electric cooperative or municipal electric utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each electric cooperative and municipal electric utility shall develop a fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint review procedure, if the utility and customer are not able to agree on a resolution of the complaint, shall be a filing for board resolution of the issues if the board determines it has jurisdiction.

**27.4(6) Limitation of service.** The electric cooperative or municipal electric utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff, or other legal document, and shall contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the board's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff or rules shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, "electric heating" shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely. If the option of resetting the meter remotely is available, the utility shall provide a 24-hour toll-free number for the customer to notify the electric cooperative or municipal electric utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the electric cooperative or municipal electric utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what

## UTILITIES DIVISION[199](cont'd)

appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

*g.* A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

*h.* A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice.

**199—27.5(476) Engineering practice.**

**27.5(1) Requirement for good engineering practice.** The electric plant of the electric cooperative or municipal electric utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

**27.5(2) Standards incorporated by reference.** The electric cooperative shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board. The standards listed below are recommended for use by municipal electric utilities.

- a.* Iowa Electrical Safety Code, as defined in 199—Chapter 25.
- b.* National Electrical Code, ANSI/NFPA 70-2014.
- c.* American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.
- d.* American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2011.
- e.* Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.
- f.* IEEE Standard 1159-2009, IEEE Recommended Practice for Monitoring Electric Power Quality, or any successor standard.
- g.* IEEE Standard 519-2014, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems, or its successor standard.
- h.* At railroad crossings, rule 199—42.6(476), “Engineering standards for electric and communications lines.”
- i.* Iowa Stray Voltage Guide, located at [www.iowastrayvoltageguide.com](http://www.iowastrayvoltageguide.com), published July 2014.

**199—27.6(476) Metering.** Each electric cooperative and municipal electric utility shall have a meter inspection and testing program that meets industry standards similar to ANSI C12.1-2014.

**199—27.7(476) Standards of quality of service.**

**27.7(1) Applicability.** The quality of service standards in this rule apply to electric cooperatives. Subrules 27.7(2), 27.7(3), and 27.7(10) apply to municipal electric utilities.

**27.7(2) Standard frequency.** The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customer’s clocks connected to the system.

**27.7(3) Voltage limits retail.** Each electric cooperative and municipal electric utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard in paragraph 27.5(2)“d.”

**27.7(4) Voltage balance.** Where three-phase service is provided the electric cooperative shall exercise reasonable care to assure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

**27.7(5) Exceptions to voltage requirements.** Voltage outside the limits specified will not be considered a violation when the variations:

- a.* Arise from the action of the elements.
- b.* Are infrequent fluctuations not exceeding five minutes’ duration.
- c.* Arise from service interruptions.

## UTILITIES DIVISION[199](cont'd)

- d. Arise from temporary separation of parts of the system from the main system.
- e. Are from causes beyond the control of the electric cooperative.
- f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

**27.7(6) *Voltage surveys and records.*** Voltage measurements shall be made at the customer's entrance terminals. For single-phase service, the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service, the measurement shall be made between the phase wires.

**27.7(7) *Voltage measurements.*** Each electric cooperative shall make a sufficient number of voltage measurements in order to determine if voltages are in compliance with the requirements as stated in subrules 27.7(3), 27.7(4), and 27.7(5). All records obtained under this subrule shall be retained by the electric cooperative for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

- a. The location where the voltage was taken.
- b. The time and date of the test.
- c. The results of the comparison with a working standard indicating voltmeter.

**27.7(8) *Equipment for voltage measurements.***

a. *Secondary standard indicating voltmeter.* Each electric cooperative shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. *Working standard indicating voltmeters.* Each electric cooperative shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. *Recording voltmeters.* Each electric cooperative must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

**27.7(9) *Handling of standards and instruments.*** Extreme care must be exercised in the handling of standards and instruments to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

**27.7(10) *Planned interruptions.*** Planned interruptions by electric cooperatives and municipal electric utilities shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected, when advance notice can reasonably be provided.

**27.7(11) *Power quality monitoring.*** Each electric cooperative shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each electric cooperative or municipal electric utility shall implement to the extent reasonably practical the practices outlined in the standard given in paragraph 27.5(2) "f."

**27.7(12) *Harmonics.*** A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric cooperative shall investigate and take actions to rectify the problem. In addressing harmonics problems, the electric cooperative and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard in paragraph 27.5(2) "g."

**199—27.8(476) Safety.**

**27.8(1) *Iowa electrical safety code compliance.*** Each electric cooperative and municipal electric utility shall be subject to 199—Chapter 25 under this subrule.

**27.8(2) *Interconnection compliance.*** Each electric cooperative and municipal electric utility shall be subject to rule 199—15.10(476) under this subrule.

**27.8(3) *Protective measures.*** Each electric cooperative and municipal electric utility shall exercise reasonable care to reduce those hazards inherent in connection with its electric service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

## UTILITIES DIVISION[199](cont'd)

**27.8(4) Accident investigation and prevention.** Electric cooperatives and municipal electric utilities shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

**27.8(5) Reportable accidents.** Electric cooperatives and municipal electric utilities shall maintain a summary of all reportable accidents, as defined in rule 199—25.5(476,478), arising from operations.

**27.8(6) Grounding of secondary distribution system.** Unless otherwise specified by the board, each electric cooperative and municipal electric utility shall comply with, and shall encourage customers to comply with, the applicable provisions of the acceptable standards listed in subrule 27.5(2) for the grounding of secondary circuits and equipment.

*a.* Ground connections should be tested for resistance at the time of installation. Each electric cooperative and municipal electric utility shall keep a record of all ground resistance measurements.

*b.* Each electric cooperative and municipal electric utility shall establish a program of inspection so that all artificial grounds installed shall be inspected within reasonable periods of time.

**199—27.9(476) Customer contribution fund.**

**27.9(1) Applicability and purpose.** This rule applies to each electric cooperative and municipal electric utility, as defined in Iowa Code sections 476.1A and 476.1B. Pursuant to Iowa Code section 476.66, each electric cooperative or municipal electric utility shall maintain a program plan to assist the electric cooperative's or municipal electric utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

**27.9(2) Notification.** Each electric cooperative or municipal electric utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the electric cooperative's or municipal electric utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other required notice may be published in a local newspaper(s) of general circulation within the service territory of the electric cooperative or municipal electric utility. A utility serving fewer than 6,000 customers may publish its semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum, the notice shall include:

*a.* A description of the availability and the purpose of the fund.

*b.* A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

**27.9(3) Methods of contribution.** The electric cooperative or municipal electric utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall not be construed to be a binding contract between the electric cooperative or municipal electric utility and the pledger. The pledge amount shall not be subject to delayed payment charges by the electric cooperative or municipal electric utility. Each electric cooperative or municipal electric utility may allow persons or organizations to contribute matching funds.

**27.9(4) Annual report.** On or before September 30 of each year, each electric cooperative or municipal electric utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The electric cooperative or municipal electric utility shall report all utility expenses directly related to the customer contribution fund.

**199—27.10(476,478) Service reliability requirements for electric utilities.**

**27.10(1) Applicability.** This rule is applicable to electric cooperatives and associations operating within the state of Iowa subject to Iowa Code section 476.1A. Paragraph 27.10(3) "g" is applicable to both electric cooperatives and municipal electric utilities.



## UTILITIES DIVISION[199](cont'd)

**27.10(2) Purpose and scope.** Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of this rule is to establish standards of reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction.

**27.10(3) General obligations.**

*a.* Each electric cooperative shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

*b.* The electric cooperative's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

*c.* Each electric cooperative shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

*d.* Each electric cooperative shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

*e.* Each electric cooperative shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

*f.* Any electric cooperative unable to comply with applicable provisions of this rule may file a waiver request pursuant to rule 199—1.3(17A,474,476).

*g.* Each electric cooperative and municipal electric utility shall adopt and have approved by its board of directors or governing authority a reliability plan. The reliability plan shall be updated not less than annually. A copy of the annual report shall be filed with the board for informational purposes.

**199—27.11(476,478) Notification of outages.**

**27.11(1) Notification.** The notification requirements in subrules 27.11(1) and 27.11(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the safety and welfare of individual Iowa citizens. Each electric cooperative and municipal electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

*a.* Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same electric cooperative or municipal electric utility. An electric cooperative or municipal electric utility may use loss of service within the utility's service territory to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

*b.* A major event as defined in subrule 27.1(4), except for notifications of emergency alerts from regional transmission organizations or independent system operators; or

*c.* Any other outage considered significant by the electric cooperative or municipal electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the electric cooperative or municipal electric utility at the time of the notification.

**27.11(2) Information required.**

*a.* Notification shall be provided regarding outages that meet the requirements of subrule 27.11(1) by notifying the board duty officer by email at [dutyofficer@iub.iowa.gov](mailto:dutyofficer@iub.iowa.gov) or, in appropriate circumstances, by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

- (1) The general nature or cause of the outage;
- (2) The area affected;

UTILITIES DIVISION[199](cont'd)

(3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;

(4) The time when service is estimated to be restored; and

(5) The name of the electric cooperative or municipal electric utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage. The notice should be supplemented as more complete or accurate information is available.

*b.* The electric cooperative or municipal electric utility shall provide to the board updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances, unless service is restored within one hour of the time initially estimated.

*c.* The electric cooperative or municipal electric utility shall notify the board once service is fully restored to all customers after an outage meeting the requirements of subrule 27.11(1).

**199—27.12(476) Electric vehicle charging service.** Electric cooperatives and municipal electric utilities shall comply with the requirements in rule 199—20.20(476) with regard to providing service to electric vehicle charging stations.

**199—27.13(476) Exterior flood lighting.**

**27.13(1) *Newly installed lighting.*** All newly installed exterior flood lighting owned by an electric cooperative or municipal electric utility shall be solid-state lighting or lighting with equivalent or better energy efficiency.

**27.13(2) *In-service lighting replacement schedule.*** In-service lighting shall be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure or for any other reason, such as vandalism or storm damage. Electric cooperatives and municipal electric utilities shall file with the board, as part of the utility's annual report required in 199—Chapter 23, a report stating the progress in converting to higher pressure sodium lighting or lighting with equivalent or higher energy efficiency. The information shall be provided as part of board 24/7 requirements.

**27.13(3) *Efficacy standards.*** Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

*a.* For fixtures, the mean lumens-per-watt lamp rating is greater than 100; or

*b.* The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or

*c.* The new lighting luminaries have a mean efficacy rating equal to or greater than 100 lumens per watt according to a Department of Energy (DOE) Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights Consortium (DLC) or any other testing agency that follows Illuminating Engineering Society of North America LM-79-08 test procedures.

These rules are intended to implement Iowa Code sections 476.1A, 476.1B and 476.2.

[Filed 8/4/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.

**ARC 5864C**

**VETERINARY MEDICINE BOARD[811]**

**Adopted and Filed**

**Rule making related to waivers**

The Veterinary Medicine Board hereby amends Chapter 14, "Waiver or Variance of Rules," Iowa Administrative Code.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

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

*Purpose and Summary*

This rule making implements 2020 Iowa Acts, House File 2389, by removing references to “variances” within Chapter 14 and updates the process by which the Board publishes rule waivers.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5656C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Board on July 29, 2021.

*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 811—Chapter 14.

*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 29, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **811—Chapter 14**, title, as follows:

~~WAIVER OR VARIANCE OF RULES~~

ITEM 2. Amend rule 811—14.1(17A,169) as follows:

**811—14.1(17A,169) Definition.** For purposes of this chapter, ~~“a waiver or variance”~~ “waiver” means action by the board which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 3. Amend rule 811—14.4(17A,169), catchwords, as follows:

**811—14.4(17A,169) Criteria for waiver ~~or variance~~.**

ITEM 4. Amend rule 811—14.12(17A,169) as follows:

**811—14.12(17A,169) Summary reports Submission of waiver information.** ~~Semiannually, the board shall prepare a summary report identifying~~ Within 60 days of granting or denying a waiver, the board shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. In addition, the report shall identify the duration and the expiration date of any waiver granted. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. ~~Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

[Filed 8/3/21, effective 9/29/21]

[Published 8/25/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/21.