Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 282—Chapter 25
"Code of Professional Conduct and Ethics"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.146
State or federal law(s) implemented by the rulemaking: Iowa Code section 256.146

Public Hearing

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

September 11, 2024 9 a.m.	Board Room, Suite A 701 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Board of Educational Examiners no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50309
Phone: 515.242.6506
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Purpose and Summary

This proposed chapter provides procedures for the issuance of teacher licenses. The Board is proposing to remove duplicative statutory language.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
- Classes of persons that will bear the costs of the proposed rulemaking:

The Board bears the cost of compliance.
- Classes of persons that will benefit from the proposed rulemaking:

Iowans in general will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
- Quantitative description of impact:

The Board bears the cost of compliance.
- Qualitative description of impact:

The Board discerns no qualitative impact.

3. Costs to the State:
- Implementation and enforcement costs borne by the agency or any other agency:

The Board bears the cost of compliance.
- Anticipated effect on state revenues:

There is no effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

This proposed chapter provides required code of conduct standards.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board bears the cost of compliance. Rules for conduct are required.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board determined that the chapter is required and has updated the language.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The public benefits from having a code of conduct for educators.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no effect on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 282—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25
CODE OF PROFESSIONAL CONDUCT AND ETHICS

282—25.1(256) Scope of standards. This code of professional conduct and ethics constitutes mandatory minimum standards of practice for all licensed practitioners as defined in Iowa Code chapter 256. The adherence to certain professional and ethical standards is essential to maintaining the integrity of the education profession.

282—25.2(256) Definitions. Except where otherwise specifically defined by law:

"Administrative and supervisory personnel" means any licensed employee such as a superintendent, associate superintendent, assistant superintendent, principal, associate principal, assistant principal, or other person who does not have as a primary duty the instruction of pupils in the schools.

"Board" means the board of educational examiners.

"Discipline" means the process of sanctioning a license, certificate, or authorization issued by the board.

"Ethics" means a set of principles governing the conduct of all persons governed by these rules.

"Fraud" means knowingly providing false information or representations on an application for licensure or employment, or knowingly providing false information or representations made in connection with the discharge of duties.

"License" means any license, certificate, or authorization granted by the board.

"Licensee" means any person holding a license, certificate, or authorization granted by the board.

"Practitioner" means an administrator, teacher, or other licensed professional, including an individual who holds a statement of professional recognition, who provides educational assistance to students.

"Responsibility" means a duty for which a person is accountable by virtue of licensure.

"Right" means a power, privilege, or immunity secured to a person by law.

"Student" means a person, regardless of age, enrolled in a prekindergarten through grade 12 school who is receiving direct or indirect assistance from a person licensed by the board.

"Teacher" means any person engaged in the instructional program for prekindergarten through grade 12 children, including a person engaged in teaching, administration, and supervision, and who is required by law to be licensed for the position held.

282—25.3(256) Standards of professional conduct and ethics. Licensees are required to abide by all federal, state, and local laws applicable to the fulfillment of professional obligations. Violation of federal, state, or local laws in the fulfillment of professional obligations constitutes unprofessional and unethical conduct that can result in disciplinary action by the board. In addition, it is hereby deemed unprofessional and unethical for any licensee to violate any of the following standards of professional conduct and ethics:

25.3(1) *Standard I—conviction of crimes, sexual or other immoral conduct with or toward a student, and child and dependent adult abuse.* Violation of this standard includes:

a. Fraud. Fraud means the same as defined in rule 282—25.2(256).

b. Criminal convictions. Criminal convictions include the commission of or conviction for a criminal offense as defined by Iowa law, provided that the offense is relevant to or affects teaching or administrative performance.

(1) Disqualifying criminal convictions. The board will deny an application for licensure and will revoke a previously issued license if the applicant or licensee has, on or after July 1, 2002, been convicted of, pled guilty to, or been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

1. Any of the following forcible felonies included in Iowa Code section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping;

2. Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

- First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
- Lascivious acts with a child;
- Assault with intent to commit sexual abuse;
- Indecent contact with a child;
- Sexual exploitation by a counselor;
- Lascivious conduct with a minor; or
- Sexual exploitation by a school employee;

3. Enticing a minor under Iowa Code section 710.10;

4. Human trafficking under Iowa Code section 710A.2;

5. Incest involving a child as prohibited by Iowa Code section 726.2;

6. Dissemination and exhibition of obscene material to minors as prohibited by Iowa Code section 728.2;

7. Telephone dissemination of obscene material to minors as prohibited by Iowa Code section 728.15;

8. Any offense specified in the laws of another jurisdiction, or any offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1)*"b"*(1); or

9. Any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1)*"b"*(1).

(2) Other criminal convictions and founded child abuse. In determining whether a person should be denied a license or whether a licensee should be disciplined based upon any other criminal conviction, including a conviction for an offense listed in subparagraph 25.3(1)*"b"*(1) that occurred before July 1, 2002, or a founded report of abuse of a child, the board will consider:

1. The nature and seriousness of the crime or founded abuse in relation to the position sought;

2. The time elapsed since the crime or founded abuse was committed;

3. The degree of rehabilitation that has taken place since the crime or founded abuse was committed;

4. The likelihood that the person will commit the same crime or abuse again;

5. The number of criminal convictions or founded abuses committed; and

6. Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

c. Sexual involvement or indecent contact with a student. Sexual involvement includes but is not limited to the following acts, whether consensual or nonconsensual: fondling or touching the inner thigh, groin, buttocks, anus or breasts of a student; permitting or causing to fondle or touch the practitioner's inner thigh, groin, buttocks, anus, or breasts; or the commission of any sex act as defined in Iowa Code section 702.17.

d. Sexual exploitation of a minor. Sexual exploitation includes the commission of or any conviction for an offense prohibited by Iowa Code section 728.12, Iowa Code chapter 709, or 18 U.S.C. §2252A(a)(5)(B) (2018).

e. Student abuse. Licensees will maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitute unethical conduct without regard to the existence of a criminal charge or conviction:

(1) Committing any act of physical abuse of a student;

(2) Committing any act of dependent adult abuse on a dependent adult student;

(3) Committing or soliciting any sexual or otherwise indecent act with a student or any minor;

(4) Soliciting, encouraging, or consummating any of the following:

1. A sexual or physical relationship with a student;

2. Grooming behavior toward a student; or

3. An otherwise inappropriate relationship with a student;

(5) Furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee;

(6) Failing to report any suspected act of child or dependent adult abuse as required by state law; or

(7) Committing or soliciting any sexual conduct as described in Iowa Code section 709.15(3) or acts or behavior listed in subparagraph 25.3(1)*"e"*(4) toward any person who was a student within 90 days prior to any conduct alleged in the complaint, if that person was taught by the practitioner or was supervised by the practitioner in any school activity when that person was a student.

25.3(2) *Standard II—alcohol or drug abuse.* Violation of this standard includes:

a. Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming illegal or unauthorized drugs or abusing legal drugs.

b. Being on school premises or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming alcohol.

25.3(3) *Standard III—misrepresentation, falsification of information.* Violation of this standard includes:

a. Falsifying or deliberately misrepresenting or omitting material information regarding professional qualifications, criminal history, college credit, staff development credit, degrees, academic award, or employment history when applying for employment or licensure.

b. Falsifying or deliberately misrepresenting or omitting material information regarding compliance reports submitted to federal, state, and other governmental agencies.

c. Falsifying or deliberately misrepresenting or omitting material information submitted in the course of an official inquiry or investigation.

d. Falsifying any records or information submitted to the board in compliance with the license renewal requirements imposed under 282—Chapter 20.

e. Falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including but not limited to changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations or modifications for such tests.

25.3(4) *Standard IV—misuse of public funds and property.* Violation of this standard includes:

a. Failing to properly account for funds collected that were entrusted to the practitioner in an educational context.

b. Converting public property or funds to the personal use of the practitioner.

c. Submitting fraudulent requests for reimbursement of expenses or for pay.

d. Combining public or school-related funds with personal funds.

e. Failing to use time or funds granted for the purpose for which they were intended.

25.3(5) *Standard V—violations of contractual obligations.*

a. Violation of this standard includes:

(1) Asking a practitioner to sign a written professional employment contract before the practitioner has been unconditionally released from a current contract, unless the practitioner provided notice to the practitioner's employing board as set forth in subparagraph 25.3(5)*"b"*(2).

(2) Abandoning a written professional employment contract without prior unconditional release by the employer.

(3) As an employer, executing a written professional employment contract with a practitioner that requires the performance of duties that the practitioner is not legally qualified to perform.

(4) As a practitioner, executing a written professional employment contract that requires the performance of duties that the practitioner is not legally qualified to perform.

b. In addressing complaints based upon contractual obligations, the board will consider factors beyond the practitioner's control. For purposes of enforcement of this standard, a practitioner will not be found to have abandoned an existing contract if:

(1) The practitioner obtained a release from the employing board before discontinuing services under the contract; or

(2) The practitioner provided notice to the employing board no later than the latest of the following dates:

1. The practitioner's last work day of the school year;
2. The date set for return of the contract as specified in statute; or
3. June 30.

25.3(6) *Standard VI—unethical practice toward other members of the profession, parents, students, and the community.* Violation of this standard includes:

a. Denying the student, without just cause, access to varying points of view.

b. Deliberately suppressing or distorting subject matter for which the educator bears responsibility.

c. Failing to make reasonable effort to protect the health and safety of the student or creating conditions harmful to student learning.

d. Conducting professional business in such a way that the practitioner repeatedly exposes students or other practitioners to unnecessary embarrassment or disparagement.

e. Engaging in any act of illegal discrimination, or otherwise denying a student or practitioner participation in the benefits of any program, on the grounds of race, creed, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.

f. Soliciting students or parents of students to purchase equipment, supplies, or services from the practitioner for the practitioner's personal advantage.

g. Accepting gifts from vendors or potential vendors where there may be the appearance of a or an actual conflict of interest.

h. Intentionally disclosing confidential information, including but not limited to unauthorized sharing of information concerning student academic or disciplinary records, health and medical information, assessment or testing results, or family income. Licensees will comply with state and federal laws and local school board policies relating to the confidentiality of student records unless disclosure is required or permitted by law.

i. Refusing to participate in a professional inquiry when requested by the board.

j. Aiding, assisting, or abetting an unlicensed person in the completion of acts for which licensure is required.

k. Failing to self-report to the board within 60 days any founded child abuse report or any conviction for a criminal offense listed in subparagraph 25.3(1)*"b"*(1) that requires revocation of the practitioner's license.

l. Delegating tasks to unqualified personnel.

m. Failing to comply with federal, state, and local laws applicable to the fulfillment of professional obligations.

n. Allowing another person to use one's practitioner license for any purpose.

o. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license.

p. Falsifying, forging, or altering a license issued by the board.

q. Failure of a practitioner holding a contract under Iowa Code section 279.13 to disclose to the school official responsible for determining assignments a teaching assignment for which the practitioner is not properly licensed.

r. Failure of a school official responsible for assigning licensed practitioners holding contracts under Iowa Code section 279.13 to adjust an assignment if the practitioner discloses to the official that the practitioner is not properly licensed for the assignment.

s. Failure of an administrator to protect the safety of staff and students.

t. Failure of an administrator to meet mandatory reporter obligations.

u. Refusal of the practitioner to implement provisions of an individualized education program or behavioral intervention plan.

v. Habitual nonparticipation in professional development by the practitioner.

25.3(7) *Standard VII—compliance with state law governing obligations to state or local governments, child support obligations, and board orders.* Violation of this standard includes:

a. Failing to comply with 282—Chapter 8 concerning payment of debts to state or local governments.

b. Failing to comply with 282—Chapter 10 concerning child support obligations.

c. Failing to comply with a board order.

25.3(8) *Standard VIII—incompetence.* Violation of this standard includes but is not limited to:

a. Willfully or repeatedly departing from or failing to conform to the minimum standards of acceptable and prevailing educational practice in the state of Iowa.

b. Willfully or repeatedly failing to practice with reasonable skill and safety.

These rules are intended to implement Iowa Code chapter 256.