

EDUCATION DEPARTMENT[281]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapter 62
“State Standards for Progression in Reading”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 279.68
State or federal law(s) implemented by the rulemaking: Iowa Code section 279.68

Public Hearing

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

January 2, 2024
10 to 10:30 a.m.

Room B50
Grimes State Office Building
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 Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Purpose and Summary

This proposed rulemaking is intended to improve reading proficiency in the early elementary grades. The amendments remove restrictive terms and unnecessarily 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:
Iowa’s school districts bear the costs of compliance with the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
This proposed rulemaking benefits children in early elementary grades and their families.

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:
There is no known quantitative impact from this proposed rulemaking.
 - Qualitative description of impact:
Removing unnecessary language is a qualitative benefit of this rulemaking.

3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The Department enforces this chapter, with costs offset by its general state appropriation.
 - Anticipated effect on state revenues:
There is no anticipated effect on state revenues.

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

Inaction would retain obsolete, inflexible, and unnecessary rule language.

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

The statute requires rules. The Department seeks to ensure any rules adopted are as limited as possible.

6. Alternative methods considered by the agency:

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

None.

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

The statute requires rules.

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 known impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 281—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62 STATE STANDARDS FOR PROGRESSION IN READING

281—62.1(256,279) Assessment of reading proficiency. All school districts shall assess reading proficiency of all students, pursuant to this rule.

62.1(1) *Assessment at beginning of school year.* A school district will assess all students enrolled in kindergarten through grade three at the beginning of each school year for the students' level of reading or reading readiness.

62.1(2) *Subsequent assessments throughout school year.* A school district will provide to all students additional, brief assessments of reading achievement in a manner specified by the department, using assessments that meet the standards described in subrule 62.1(5).

62.1(3) *Progress-monitoring instruments.* For students identified as being persistently at risk in reading, as well as students who are becoming persistently at risk in reading, a school district will monitor the students' progress in reading with instruments that meet the standards in subrule 62.1(5), in at least a frequency specified by the department.

62.1(4) *Statewide or locally determined assessments.* Assessments may be locally determined or statewide, including an annual standard-based assessment, provided that all assessments for purposes of implementing this chapter meet the standards described in subrule 62.1(5).

62.1(5) *Standards for approval for assessments.* Any assessment of reading or reading readiness under this rule and used to implement this chapter is to meet the following minimum standards before use by a school district:

a. Standards for all assessments. Any assessment used under this chapter, including instruments described in paragraphs 62.1(5) "b" and "c," is to meet department-adopted minimum standards for reliability and validity, at the appropriate grade level and for the skills assessed. In addition, all assessments are to have information available concerning administration time per student, access to student data after completion, and amount of teacher training required.

b. Standards for universal-screening instruments. Any assessment used for universal-screening purposes under this chapter is to meet department-adopted minimum standards for the following statistical measures: area under the curve and specificity/sensitivity.

c. Standards for progress-monitoring instruments. Any assessment used for progress-monitoring purposes under this chapter is to meet department-adopted standards for number of forms of demonstrated equivalence and for the following statistical measure: reliability of slope.

d. Department publication of approved assessments. The department will annually publish or update a list of assessments approved pursuant to this subrule. Approved assessments will have a demonstrated ability to predict future reading performance.

62.1(6) Basic levels of reading proficiency on approved assessments. The department will determine benchmarks for basic levels of reading proficiency to be used with approved assessments based on the ability to predict meaningful future outcomes of a student's reading performance that is sufficient to master appropriate grade four reading skills prior to the student's promotion to grade four.

62.1(7) Assessment measures. Assessments administered to implement this chapter, when taken as a whole, are to measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

62.1(8) Noncompliant assessments. Assessments that do not meet the provisions of this rule may not be used by any school district to implement this chapter.

281—62.2(256,279) Tools for evaluating and reevaluating reading proficiency. The department identifies the following attributes of tools that may be used in evaluating and reevaluating reading proficiency:

62.2(1) Locally determined or statewide assessments. In evaluating and reevaluating students who are or may be at risk or persistently at risk in reading, school districts are to use assessments that meet the standards referenced in subrule 62.1(5).

62.2(2) Alternative assessments. If a school district determines, based on the clear and unique facts of a particular student's case, that a particular student needs an alternative assessment to determine proficiency in reading, in addition to the assessments referred to in rule 281—62.1(256,279) and subrule 62.2(1), the alternative assessment is to be founded on scientifically based research and reasonably calculated to provide equivalent information about the student's reading, in addition to information provided by the assessments referred to in rule 281—62.1(256,279) and subrule 62.3(1).

62.2(3) Portfolio reviews. School districts may review a portfolio of a student's work to determine reading proficiency. Portfolio reviews are to be conducted using standard review criteria that are founded on scientifically based research. A portfolio review may be used along with assessments in rule 281—62.1(256,279) and subrule 62.2(1), but not be used in lieu of such assessments. The department is to maintain a list of portfolio review criteria that are adequate under this subrule.

62.2(4) Teacher observation. A student may initially be identified as being persistently at risk in reading proficiency based on teacher observation. A teacher observation under this subrule is to be based on department-approved observation criteria. Teacher observation shall not be used to determine that a student continues to be persistently at risk in reading.

62.2(5) Other tools. The department may identify additional tools for use in evaluating and reevaluating reading proficiency, so long as those tools are founded on scientifically based research.

62.2(6) Alternate assessment. If an individual with a disability has been determined to need an alternate assessment aligned to alternate academic achievement standards in reading, pursuant to rule 281—41.320(256B,34CFR300), that individual is to receive such alternate assessment, as well as alternate universal screening and progress monitoring pursuant to this chapter on instruments approved by the department.

62.2(7) Noncompliant tools. Tools that do not meet the provisions of this rule shall not be used by any school district to implement this chapter.

281—62.3(256,279) Identification of a student as being persistently at risk in reading.

62.3(1) Definition of "persistently at risk in reading." A student is determined "persistently at risk" under the standard in Iowa Code section 279.68(1)"a." A student is "at risk in reading" if the student did not meet the grade-level benchmark for one of the two most recent screening assessments administered pursuant to this chapter.

62.3(2) Determination of a persistent risk in reading.

a. In initially determining whether a student is persistently at risk in reading as defined in subrule 62.3(1), the school district will consider assessments referred to in rule 281—62.1(256,279) and subrule 62.2(1) or teacher observations that meet the criteria referenced in subrule 62.2(4).

b. In determining whether a student continues to be persistently at risk in reading, a school district will consider assessments referred to in rule 281—62.1(256,279) and subrule 62.2(1), with specific attention given to progress-monitoring results under subrule 62.2(3).

62.3(3) Services offered to all students who are persistently at risk in reading. A school district will provide intensive reading instruction to any student who is persistently at risk in reading. A school district will continue to provide the student with intensive reading instruction until the student is reading at grade level, at grade levels beyond grade three if necessary, as determined by the student's consistently proficient performance on valid and reliable measures of reading ability that meet the provisions of rule 281—62.1(256,279). All services provided under this subrule will comply with rule 281—62.4(256,279).

62.3(4) Notice to parents. The district will comply with Iowa Code section 279.68(2)“b” and “c.”

281—62.4(256,279) Successful progression for early readers. Each school district shall provide the following:

62.4(1) Intensive instructional services. A school district will provide students who are persistently at risk in reading with the services specified in Iowa Code section 279.68(2)“a.”

62.4(2) Reading enhancement and acceleration development initiative. The intensive instructional services described in subrule 62.4(1) will be provided to all students in kindergarten through grade three who are identified as being persistently at risk in reading. The services will meet the specifications in the following paragraphs:

a. A school district will provide intensive instructional services during regular school hours, in addition to the regular reading instruction.

b. A school district will provide a reading curriculum that meets the standards of subrule 62.4(3).

62.4(3) Reading curriculum for students who are persistently at risk in reading. A curriculum that does not meet the standards of this subrule shall not be used to implement this chapter. To implement this subrule, a school district will provide a curriculum that meets the following guidelines and specifications:

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 learning disability 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 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.

b. Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

c. Is supported by scientifically based research in reading.

d. Is implemented by certified instructional staff with appropriate training and professional development. Such training and professional development will meet the provisions of 281—Chapter 83.

e. Is implemented by certified instructional staff with fidelity, which meets such standards for fidelity of implementation that the department may adopt.

f. Includes a scientifically based and reliable assessment, which meets the provisions of rule 281—62.1(256,279).

g. Provides initial and ongoing analysis of each student's reading progress, which meets the provisions of rule 281—62.1(256,279), with notice provided to parents pursuant to subrule 62.4(4).

h. Is implemented during regular school hours.

i. Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

62.4(4) Parent notice, involvement and support. At a minimum and in addition to other provisions of this chapter, school districts will provide the following to all parents or guardians of students who are persistently at risk in reading:

a. At regular intervals, a school district will apprise the parent or guardian of academic and other progress being made by the student and give the parent or guardian other useful information.

b. In addition to required reading enhancement and acceleration strategies provided to students, a school district will provide parents or guardians of students who are persistently at risk in reading with a plan outlined in a parental contract, including participation in regular parent-guided home reading.

62.4(5) Report to the department. Each school district will report to the department the specific intensive reading interventions and supports implemented by the school district pursuant to this chapter. The department will annually prescribe the components of required or requested reports.

62.4(6) *Rule of construction: students who are at risk in reading.* Subject to paragraphs 62.4(6) “a” and “b,” school districts may voluntarily provide additional services and interventions to students who are “at risk in reading” as defined in subrule 62.3(1).

a. School districts will provide progress monitoring to students who are “at risk in reading.”

b. If a student who was previously “persistently at risk” and is currently identified as “at risk” and falls below the grade-level benchmark on a locally determined number of progress monitoring probes, the student will be provided services under this rule until the next screening assessment administered pursuant to this chapter.

281—62.5(256,279) Ensuring continuous improvement in reading proficiency.

62.5(1) *General.* To ensure all children are reading proficiently by the end of third grade, each school district will comply with the provisions of Iowa Code section 279.68(3) “a.”

62.5(2) *Relationship between this chapter and the department’s general accreditation standards.* In addition to subrule 62.5(1), the department will consider compliance with and performance under this chapter in its enforcement of the general accreditation standards and school improvement process described in 281—Chapter 12.

281—62.6(256,279) Miscellaneous provisions.

62.6(1) *Services beyond third grade.* Students who are identified as persistently at risk in reading at the end of third grade remain entitled to intensive reading instruction. Nothing in this chapter prohibits a school district from determining a student above third grade is persistently at risk in reading or from providing services to a student so identified.

62.6(2) *Database.* In implementing subrule 62.4(5), the department may require school districts to enter assessment and progress monitoring data into a statewide database.

62.6(3) *Accredited nonpublic schools.* Nothing in this chapter prevents an accredited nonpublic school from voluntarily complying with this chapter. Nothing in this chapter prevents the department from offering universal screening or progress monitoring instruments to accredited nonpublic school students or prevents the department from allowing inclusion of those students’ data in the database described in subrule 62.6(2).

62.6(4) *Rule of construction.* Nothing in this chapter obligates a school district to select a particular assessment, instrument, tool, curriculum, or program, so long as the assessment, instrument, tool, curriculum, or program used meets the provisions of this chapter.

These rules are intended to implement Iowa Code section 279.68.