

EDUCATION DEPARTMENT[281]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 281—Chapters 64 and 67
“Child Development Coordinating Council”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 279.51

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 256A and section 279.51

Public Hearing

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

January 2, 2024
9 to 9:30 a.m.

Room B50
Grimes State Office Building
Des Moines, Iowa 50319

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:

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Purpose and Summary

The current chapters provide grant support for a preschool program (281—Chapter 64) and a family support program (281—Chapter 67), both for at-risk children and families and both administered by the Department of Education on behalf of the Child Development Coordinating Council (CDCC). Both programs are supported by an annual legislative appropriation.

Because of similar standards and objectives, the Department proposes consolidating the two chapters into one. The current chapters contain unnecessarily restrictive terms and unneeded duplication of statutory text. Additionally, by consolidating these two chapters into one, the Department proposes reducing rules that are duplicative between the chapters.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
CDCC grantees will bear the costs of the proposed rulemaking.
 - Classes of persons that will benefit from the proposed rulemaking:
Children and families served by CDCC grantees 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:
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 64 and adopt the following **new** chapter in lieu thereof:

CHAPTER 64

CHILD DEVELOPMENT COORDINATING COUNCIL

281—64.1(256A,279) Purpose. These rules structure the child development coordinating council and set forth its operating procedures.

281—64.2(256A,279) Definitions applicable to this chapter.

“*Council*” means the child development coordinating council.

“*Department*” means the department of education.

“*Grantee*” means the applicant designated to a grant under this chapter.

“*Parent*” means biological, adoptive, surrogate, or foster parent, or guardian.

281—64.3(256A,279) Child development coordinating council. The council members are set forth in Iowa Code section 256A.2. The Iowa resident parent will be chosen by the Iowa Head Start Association.

281—64.4(256A,279) Procedures.

64.4(1) A quorum consists of two-thirds of the voting members.

64.4(2) When a quorum is present, a position passes when approved by a majority of voting members.

64.4(3) The council will meet at least four times per year and may meet more often at the call of the chair or a majority of voting members.

64.4(4) The chairperson and vice-chair will be elected by the council for a term of two years. After the initial two-year term as vice-chair, the vice-chair will assume the role of chairperson for a term of two years.

281—64.5(256A,279) Duties. The duties of the council are provided in Iowa Code sections 256A.3 and 279.51.

281—64.6(256A,279) Application process. The council will advise the department to announce through public notice the opening of an application period for both division I and division II of this chapter.

281—64.7(256A,279) Request for proposals. Applications for grants under either division of this chapter will be distributed by the department upon request. Proposals not containing the specified information or not received by the specified date will not be considered. All applications are to be submitted in accordance with instructions in the requests for proposals and are to be submitted to the department.

281—64.8(256A,279) Notification of applicants. The council will advise the department to notify applicants of the decision to approve or disapprove the proposal within 45 days of the deadline for applications. Negotiations may be required. Successful applicants will be requested to have an official with vested authority sign a contract with the department.

281—64.9(256A,279) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the council may withdraw the award offer.

281—64.10(256A,279) Evaluation. The grantee will cooperate with the council and provide requested information to determine how well the goals and objectives of the project are being met.

281—64.11(256A,279) Contract revisions and budget reversions. The grantee will immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but will not increase the total amount of the grant. Grant funds unencumbered or unobligated at the conclusion of the program period revert to the department. The program period concludes at the end of the five-year grant cycle, if an annual renewal grant within the five-year grant cycle is not awarded, or at any time the grant is discontinued during the five-year grant cycle.

281—64.12(256A,279) Termination for convenience. The contract may be terminated in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the future expenditure of funds. The parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and cancel as many outstanding obligations as possible.

281—64.13(256A,279) Termination for cause. The contract may be terminated in whole or in part at any time before the date of completion, whenever it is determined by the council that the grantee has failed to comply substantially with the conditions of the contract. The grantee will be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and cancel as many outstanding obligations as possible.

The department will administer the grants under this chapter contingent upon funding availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the child development grants and the public school grants, the contracts will be terminated or renegotiated. The department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

281—64.14(256A,279) Responsibility of grantee at termination. Within 45 days of the termination, the grantee will supply the department with a financial statement detailing all costs up to the effective date of the termination. If the grantee expends money for other than specified budget items approved by the council, the grantee will return moneys for unapproved expenditures.

281—64.15(256A,279) Appeal from terminations. Any agency or public school aggrieved by a termination of a contract for cause pursuant to rule 281—64.13(256A,279) may appeal the decision to the director of the department in writing

within 30 days of the decision to terminate. The hearing procedures found at 281—Chapter 6 apply to appeals of terminated grantees, except that the rules on consolidation, severance, waiver of proceedings, and manner of hearing do not apply.

In the notice of appeal, the grantee will give a short and plain statement of the reason for the appeal.

The director will issue a decision within a reasonable time, not to exceed 120 days from the date of the hearing.

281—64.16(256A,279) Refusal to issue ruling. The director may refuse to issue a ruling or decision upon an appeal for good cause. Good cause includes the following reasons:

1. The appeal is untimely;
2. The appellant lacks standing to appeal;
3. The appeal is not in the proper form or is based upon frivolous grounds;
4. The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties;
5. The termination of the grant was beyond the control of the department because it was due to lack of funds available for the contract.

281—64.17(256A,279) Request for Reconsideration. An applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within ten days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration is to be based upon one of the following grounds:

1. The decision process was conducted in violation of statute or rule;
2. The decision violates state or federal law, policy, or rule (to be cited in the Request);
3. The decision process involved a conflict of interest.

Within 20 days of filing a Request for Reconsideration, the requester will submit all written documentation, evidence, or argument in support of the request. The director will notify the council of the request and provide the council an opportunity to defend its decision with written documentation, evidence, or argument, which is to be submitted within 20 days of receipt of the request. The council will provide copies of all documents to the requester at the time the items are submitted to the director.

The director will issue a decision granting or denying the Request for Reconsideration within 30 days of the receipt of the evidence, or no later than 60 days from the date of Request for Reconsideration, unless a later date is agreeable to the requester and the council.

281—64.18(256A,279) Refusal to issue decision on request. The director may refuse to issue a decision on a Request for Reconsideration upon good cause. Good cause includes the following reasons:

1. The request was untimely;
2. The requester lacks standing to seek reconsideration;
3. The request is not based on any of the available grounds in rule 281—64.17(256A,279), or is merely frivolous or vexatious;
4. The requester failed to provide documentation, evidence or argument in support of its request;
5. The request is moot due to negotiation and settlement of the issue(s).

281—64.19(256A,279) Granting a Request for Reconsideration. If the director grants a Request for Reconsideration, the council will consider the grantee's application in accordance with the director's findings and decision.

DIVISION I
EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS OF CHILDREN AGED BIRTH THROUGH FIVE YEARS WHO ARE AT RISK (ALSO
KNOWN AS SHARED VISIONS PARENT SUPPORT PROGRAMS)

281—64.20(256A,279) Definitions.

“Applicant” means a public school district, an area education agency or an agency which applies for the funds to provide quality educational support programs to parents of children aged birth through five years who are at risk, with an emphasis on parents of children aged birth through three years.

“Children who are at risk” means children aged birth through five years who are at risk because of physical or environmental influence.

“*Educational support services*” means individual or group opportunities providing information to parents which focuses on parenting skills, child growth and development, building of self-concept, nutrition, positive guidance techniques, family resource management, parent literacy, and how to access the array of supportive services from a network of agencies that are available to families with young children who are at risk.

“*Quality educational support services*” means educational support services that have a qualified or trained staff to provide a program which meets the needs of parents through the use of a validated curriculum or which is based on a model project which has proven successful in another state or location.

281—64.21(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council will award grants to applicants for the provision of educational support services to parents of children aged birth through five years who are at risk, with priority to applicants that serve parents of children aged birth through three years who are at risk. Funds will be made available on a competitive basis to schools or nonprofit agencies demonstrating an ability to provide quality educational support services to parents of children aged birth through five years who are at risk. Competitive grants will be awarded with a renewal option for up to five years contingent upon the awardee’s meeting program requirements. If program requirements are not met, the council will advise the department to discontinue grant funding at the start of the following fiscal year.

281—64.22(256A,279) Eligibility. The available funds shall be directed to serve parents of children aged birth through five years who are at risk in the primary eligibility category as follows:

Parents having one or more children aged birth through five years who meet the current income eligibility guidelines for free and reduced price meals under the child nutrition program.

281—64.23(256A,279) Secondary eligibility. The available funds shall be directed to serve parents of children aged birth through five years who are at risk when children qualify in one or more of the secondary eligibility categories as follows:

1. Children who are abused.
2. Children functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional.
3. Children born with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1,500 grams—approximately three pounds) or with conditions such as spina bifida, Down syndrome, or other genetic disorders.
4. Children born to a parent who was under the age of 18.
5. Children residing in a household where one or more of the parents or guardians:
 - Has not completed high school;
 - Has a substance use disorder;
 - Has a chronic mental illness;
 - Is incarcerated;
 - Has low literacy skills;
 - Has a history of child or spouse abuse; or
 - Is an English learner.
6. Children having other special circumstances, such as foster care or being homeless.

281—64.24(256A,279) Grant awards criteria.

64.24(1) Criteria points. The following information will be provided and points will be awarded to applicants based on the following criteria as stated in the request for proposal:

- a. Identification of parents of children who are at risk.
- b. Positive family focus.
- c. Educational support programs to provide family services.
- d. Community and interagency coordination.
- e. Overall program evaluation.
- f. Letters of community support.
- g. Program budget (administrative costs not to exceed 10 percent of total award).

64.24(2) Additional grant components. The following information will be provided and points will be awarded to applicants based on the following additional components.

- a. Documentation of a need for this project.
- b. Justification of how this project will utilize services from other agencies and how this project will supplement services to the eligible population.
- c. Identification of the curriculum to be used or the model to be replicated.
- d. Demonstration that persons qualified to administer these educational support services to parents will be employed.

281—64.25(256A,279) Award contracts.

64.25(1) Grants for educational support services to parents of children aged birth through five years who are at risk shall not supplant other existing funding sources.

64.25(2) Administrative costs are limited to 10 percent of the total award.

281—64.26(256A,279) Grantee responsibilities. The grantee will maintain records which include:

1. Demographic information on parents and children served.
2. Qualifying criteria for those parents receiving educational support services.
3. Documentation of the number of contact hours in either individual or group sessions with parents.
4. Documentation of the type of educational support service provided to parents.
5. Indication of where the services were provided, i.e., home, school or community facility.
6. Evaluation of how each project goal and objective was met, on what timeline, and with what success rate.
7. Record of expenditures and an annual audit. Grant funding is to support direct services to families and their children to the fullest extent possible.
8. Other information specified by the council necessary to the overall evaluation.

Grantees will complete a year-end report on forms provided by the department documenting the information outlined in this rule.

DIVISION II
CHILD DEVELOPMENT PROGRAMS (ALSO KNOWN AS SHARED VISIONS PRESCHOOL PROGRAMS)

281—64.27(256A,279) Definitions applicable to this division.

“Applicant” means a public or private nonprofit organization, licensed by the department of health and human services or approved by the department of education, which applies for the state child development funds.

“Child development grants” means the funds awarded by the council to assist child development programs.

“Children who are at risk” means a student who meets one or more of the primary and secondary risk factors stated in rules 281—64.29(256A,279) and 281—64.30(256A,279).

“Low-income family” means a family who meets the financial eligibility criteria for free and reduced price meals offered under the child nutrition program.

“Project” means the child development program for which grant funds are requested.

“Public school applicant” means a public school district approved by the department which applies for the state public school child development funds.

“Public school child development grants” means the funds awarded by the council to assist public school child development programs as established in Iowa Code section 279.51.

“Public school grantee” means the applicant designated to receive public school child development grants.

“Public school project” means the public school child development program for which grant funds are requested.

281—64.28(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council will grant awards on a competitive basis to child development programs for three- and four-year-old children who are at risk and public school child development programs for three-, four-, and five-year-old children who are at risk. Competitive grants will be awarded with a renewal option for up to five years when grantees meet program requirements. If program requirements are not met, the council will advise the department to discontinue grant funding at the start of the following fiscal year.

281—64.29(256A,279) Primary eligibility.

64.29(1) Child development grants. At least 80 percent of the funded available enrollment slots for three- and four-year-old children who are at risk will be directed to serve children in primary eligibility categories as follows:

- a. Children reaching three or four years of age on or before September 15 of the contract year; and
- b. Members of a low-income family.

64.29(2) Public school child development grants. At least 80 percent of the funded available enrollment for three-, four-, and five-year-old children who are at risk in public school child development programs will be directed to serve children in primary eligibility categories as follows:

- a. Children reaching three, four, or five years of age on or before September 15 of the contract year; and
- b. Members of a low-income family.

64.29(3) Enrollment criteria. Applicants are to document the number of children enrolled under primary eligibility and the criteria used for enrollment.

281—64.30(256A,279) Secondary eligibility.

64.30(1) Criteria. Up to 20 percent of the available funded child development enrollment slots for at-risk may be filled by children who are three or four years of age on or before September 15 or public school enrollment slots by children who are three, four, or five years of age on or before September 15; are above the income eligibility guidelines provided that they are served on a sliding fee schedule determined at the local level; and are eligible according to one or more of the following criteria if the child:

- a. Is functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional;
- b. Was born with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1,500 grams—approximately three pounds) or with conditions such as spina bifida, Down syndrome, or other genetic disorders;
- c. Was born to a parent who was under the age of 18;
- d. Resides in a household where one or more of the parents or guardians:
 - (1) Has not completed high school;
 - (2) Has a substance use disorder;
 - (3) Has a chronic mental illness;
 - (4) Has low literacy skills;
 - (5) Is incarcerated; or
 - (6) Has a history of child or spousal abuse; or
- e. Has other special circumstances, such as foster care or being homeless.

The program may include children without risk factors, provided they are at full pay and meet other age requirements.

64.30(2) Enrollment criteria. Applicants are to document the number of children enrolled under secondary eligibility and the criteria used for enrollment.

281—64.31(256A,279) Grant awards criteria.

64.31(1) Criteria points. The following information shall be provided and points awarded to applicants based on the following criteria as stated in the request for proposal:

- a. Provision of a comprehensive child development program.
- b. Limited class size.
- c. Child-teacher ratios of not less than one staff member per eight children.
- d. Provision of parental involvement.
- e. Demonstration of community support.
- f. Utilization of services provided by other community agencies.
- g. Use of qualified teachers.
- h. Existence of a plan for program evaluation including, but not limited to, measurement of student outcomes.
- i. Developmentally appropriate practices.

64.31(2) Additional grant components. The following information shall be provided and points awarded to applicants based on the following additional components.

- a. Program summary.
- b. Research documentation.

- c. Identification and documentation of local populations who are at risk.
- d. Letters of community support.
- e. Program budget (administrative costs not to exceed 10 percent of total award).

281—64.32(256A,279) Grant process.

64.32(1) An applicant will make formal response using forms issued and procedures established by the council.

64.32(2) A rating team composed of persons with expertise in child development programs and fiscal management experience will review and rank the proposals.

64.32(3) The council has the final discretion to award funds.

64.32(4) The council will advise the department to notify successful applicants and to provide to each of them a contract for signature.

281—64.33(256A,279) Grantee responsibilities.

64.33(1) The grantee will maintain records which include but are not limited to:

- a. Information on children and families served.
- b. Direct services provided to children.
- c. Record of budget, including expenditures. Grant funding is to support direct services to children to the fullest extent possible. Administrative costs under these programs is limited to 10 percent of the total award.
- d. Other appropriate information specified by the council necessary to the overall evaluation.

Monitoring of such records will be conducted through the submission of annual reports by the grantee and may include on-site review as determined necessary by the department.

64.33(2) Programs in year one of award. Each program in year one of a grant shall meet the program standards and accreditation criteria of the National Association for the Education of Young Children, the Iowa quality preschool program standards, or other approved program standards as determined by the department during the program's first year of funding. Programs that do not attain accreditation or that do not receive a waiver will not be funded.

64.33(3) Programs in renewal years.

a. Programs shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children, the Iowa quality preschool program standards and criteria, or other approved program standards as determined by the department. Programs unable to maintain accreditation may apply for a waiver of accreditation within 30 days of the change in accreditation status. Waivers are awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.

b. Continuation of a grantee's participation for a second or subsequent renewal year is subject to the approval of the department based upon the grantee's compliance with program requirements and the department's review of the grantee's implementation of the grant program.

c. Awarded grantees are to maintain the program standards identified in the awarded application throughout the five-year grant cycle, unless unforeseen circumstances occur. Such circumstances will be considered at the discretion of the council.

64.33(4) Grantees will provide annual reports that include information detailing progress toward goals and objectives, expenditures and services provided on forms provided for those reports. Failure to submit reports by the due date will result in suspension of financial payments to the grantee until the time that the report is received. No funds will be made available to programs in renewal years when there are delinquent reports from prior years. No new initial awards will be made to programs when there are delinquent reports from prior grant cycles.

64.33(5) Grantees may use funds in a manner consistent with Iowa Code section 279.51(2) "b."

64.33(6) Any contract under this division may be terminated in whole or in part by June 30 of the current fiscal year in the event that the grantee has not attained accreditation of the program standards identified in the awarded application or has not been awarded a waiver of accreditation by the council.

These rules are intended to implement Iowa Code chapter 256A and section 279.51.

ITEM 2. Rescind and reserve **281—Chapter 67.**