

*State of Iowa*

**Iowa**  
**Administrative**  
**Code**  
**Supplement**

Biweekly  
December 15, 2010



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Acting Administrative Code Editor

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Published by the  
STATE OF IOWA  
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

# INSTRUCTIONS

## FOR UPDATING THE

# IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

### **Engineering and Land Surveying Examining Board[193C]**

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CHAPTER 4  
ENGINEERING LICENSURE  
[Prior to 11/14/01, see 193C—1.4(542B)]

**193C—4.1(542B) Requirements for licensure by examination.** The specific requirements for initial licensing in Iowa are established in Iowa Code section 542B.14, and it is the board's intention to issue initial licensure only when those requirements are satisfied chronologically as set forth in the statute.

**4.1(1)** First, the applicant for initial licensure in Iowa must satisfy the educational requirements as follows:

*a.* Graduation from an engineering program of four years or more.

(1) If an applicant did not graduate from an Accreditation Board of Engineering and Technology/Engineering Accreditation Commission (ABET/EAC) or Canadian Engineering Accreditation Board (CEAB) approved curriculum, the applicant must also complete, in addition to the engineering degree, a year of practical experience satisfactory to the board after receiving the engineering degree and prior to taking the Fundamentals of Engineering examination.

(2) An engineering technology curriculum does not constitute an engineering program of four years or more.

*b.* If an applicant obtained an associate of science degree or a more advanced degree between July 1, 1983, and June 30, 1988, the board shall only require satisfactory completion of a minimum of two years of postsecondary study in mathematics, physical sciences, engineering technology, or engineering at an institution approved by the board and six years of practical experience which, in the opinion of the board, is of satisfactory character to properly prepare the applicant for the Fundamentals of Engineering examination. (Applicants qualifying under this subrule must successfully complete the Fundamentals of Engineering examination by June 30, 2001.)

**4.1(2)** Second, the applicant must successfully complete the Fundamentals of Engineering examination.

*a.* An applicant may take the Fundamentals of Engineering examination anytime after the educational requirements as specified above are completed, but the applicant must successfully complete the Fundamental of Engineering examination prior to taking the Principles and Practice of Engineering examination.

*b.* College seniors studying an ABET/EAC or CEAB approved curriculum may take the Fundamentals of Engineering examination during the final academic year. Applicants will be permitted to take the examination during the testing period which most closely precedes anticipated graduation. However, an official transcript from the applicant's college or university verifying that the applicant graduated must be sent by the registrar to the board office before an applicant's examination results will be released.

*c.* An applicant who graduated from a satisfactory engineering program and has 25 years or more of work experience satisfactory to the board shall not be required to take the Fundamentals of Engineering examination.

*d.* An applicant who has earned a Doctor of Philosophy degree from an institution in the United States of America with an accredited Bachelor of Science engineering degree program in the same discipline, or a similar doctoral degree in a discipline approved by the board, shall not be required to take the Fundamentals of Engineering examination.

**4.1(3)** Third, the applicant must successfully complete the Principles and Practice of Engineering examination.

*a.* To qualify to take this examination, the applicant must present a record of four years or more of practical experience in engineering work which is of a character satisfactory to the board. This experience must have been obtained after the receipt of the qualifying education and prior to the application due date for the examination.

*b.* An applicant for the Principles and Practice of Engineering examination shall have a minimum of one year of practical experience in the United States of America or a territory under its jurisdiction.

**4.1(4)** Work project description. An applicant for initial licensure as a professional engineer must include with the application a work project statement of approximately 200 words describing a significant project on which the applicant worked closely during the previous 12 months. The board will review all work project statements and will only approve those that include all of the components listed below in paragraphs “a” through “d” and meet the criteria listed in paragraph “e.”

a. The statement shall describe the applicant’s degree of responsibility for the project.  
b. The statement shall identify the project’s owner and its location.  
c. The statement shall include the name of the supervisor in charge of the project and, if the supervisor is a professional engineer, the license number of the supervisor.

d. The statement shall be signed and dated.  
e. Criteria the board shall use in evaluating the acceptability of the project as qualifying experience for the applicant shall include, but not be limited to, the following:

- (1) The degree to which the project and the experience described have progressed from assignments typical of initial assignments to those more nearly expected of a licensed professional;
- (2) The scope and quality of the professional tutelage experienced by the applicant;
- (3) The technical decisions required of the applicant in the project; and
- (4) The professional decisions required of the applicant.

The board reserves the right to contact the employer and the person providing tutelage on the project for information about the project experience presented to the applicant.

**4.1(5)** References. References are required for any applicant who must meet an experience requirement prior to taking an examination.

a. An applicant for the Principles and Practice of Engineering examination shall submit five references on forms provided by the board.

(1) At least three of the five references shall be from licensed professional engineers.  
(2) At least one reference shall be from a supervisor. If the applicant has had more than one supervisor, at least two of the references shall be from a supervisor of the applicant. An applicant shall submit supervisor references to verify at least four years of qualifying experience.

(3) If an applicant has had professional experience under more than one employer, the applicant shall provide references from individuals with knowledge of the work performed under a minimum of two employers.

(4) The board reserves the right to contact references, supervisors, or employers for information about the applicant’s professional experience and competence or to request additional references.

(5) All licensed professional engineers who submit references for an applicant shall be sufficiently familiar with the applicant’s work product to formulate credible opinions on the applicant’s capacity to assume responsible charge of professional engineering works and services.

(6) At least one of the licensed professional engineers who provides references for the applicant shall have provided professional tutelage in the course of a mentoring relationship on such matters as technical skills; professional development; the exercise of professional judgment, ethics, and standards in the application of engineering principles and in the review of such matters by others; and the professional obligations of assuming responsible charge of professional engineering works and services.

(7) Applicants who have not been supervised by a licensed professional engineer for at least four years of qualifying experience shall submit one or more references to verify tutelage by unlicensed supervisors, as provided in paragraph 4.1(7) “a.”

(8) The board uses references partially as a means of verifying an applicant’s record of experience. The applicant must distribute a reference form to individuals who are asked to submit references for the applicant. To each reference form, the applicant shall attach a copy of the portion of the applicant’s experience record that is being addressed by the referring individual.

b. An applicant for the Fundamentals of Engineering examination whose engineering degree is not from an ABET/EAC or CEAB accredited engineering program must provide a reference from a supervisor on a form provided by the board.

**4.1(6)** Education and experience requirements. The board will require the minimum number of years set forth on the following chart before an applicant will be permitted to take either the Fundamentals of

Engineering or the Principles and Practice of Engineering examination. Column 1 indicates the years of practical experience required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

| EXPERIENCE REQUIREMENTS FOR EXAMINATION APPLICANTS  |  |  |
|---|--|--|
| If the applicant's educational level is:  | 1<br>The applicant must have the following additional years of experience prior to taking the Fundamentals of Engineering examination: | 2*<br>The applicant must have the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination: |
| A 4-year bachelor's degree in an accredited engineering program   | 0  | 4  |
| A 4-year bachelor's degree in mathematics or physical sciences plus a master's degree* in engineering                     | 0  | 4  |
| A 4-year bachelor's degree in technology or architecture plus a master's degree* in engineering                           | 0  | 4  |
| A 4-year bachelor's degree in engineering from a nonaccredited engineering program  | 1  | 4  |
| A 4-year bachelor's degree in engineering from a nonaccredited engineering program plus a master's degree* in engineering | 0  | 4  |

\*For purposes of this subrule, an applicant's master's degree in engineering must be from an institution in the United States of America with an accredited bachelor's degree in the same curriculum, and the master's degree candidate must be required to fulfill the requirements for the bachelor's degree in the same area of specialization.

**4.1(7)** Practical experience requirements. Practical engineering experience is required prior to licensing. The purpose of this requirement is to ensure that the applicant has acquired the professional judgment, capacity and competence to design engineering works, structures, and systems. The following criteria will be considered by the board in determining whether an applicant's experience satisfies the statutory requirements.

*a. Quality.* Qualifying experience shall be supervised and of such quality as to demonstrate that the applicant has developed technical skill and initiative in the correct application of engineering principles. Such experience should demonstrate the applicant's capacity to review the applications of these principles by others and to assume responsibility for engineering work of professional character. To be readily acceptable, an applicant's experience shall be under the tutelage and supervision of a professional engineer. An applicant who is an engineer intern and whose experience was not attained under the supervision of a licensed professional engineer must submit a cover letter to the board requesting consideration of such experience along with the application. The applicant shall also submit on forms provided by the board a reference from the applicant's supervisor(s). The reference shall include an assessment of the applicant's performance, development, integrity, and ability to assume responsible charge and shall contain a description of the supervisor's background in education and experience and the nature of the unlicensed tutelage provided to the applicant. Whether directly supervised by a licensed professional engineer or not, all applicants must have received professional tutelage (instruction, guidance, mentoring, review, and critique) from one or more licensed professional engineers to qualify to take the professional engineering examination. Accordingly, all applicants must submit at least one reference from the licensed professional engineer(s) who provided professional tutelage as described in subparagraph 4.1(5)"a"(6). The board may require the applicant to submit additional letters of reference or other evidence of suitable tutelage and supervision. The board may require an oral interview with the applicant or other evidence to verify the applicant's knowledge

and experience in the principles and practice of engineering. The board may conduct interviews with persons providing tutelage or supervision to the applicant.

*b. Scope.* Experience shall be of sufficient breadth and scope to ensure that the applicant has attained reasonably well-rounded professional competence in a basic engineering field, rather than highly specialized skill in a very narrow and limited field.

*c. Progression.* The record of experience shall indicate successive and continued progress from initial, subprofessional work of simpler character to recent, professional work of greater complexity and a higher degree of responsibility, as well as continued interest and effort on the part of the applicant toward further professional development and advancement. In evaluating this progression, the board will consider both subprofessional and professional activity as reported by the candidate. However, only work experience obtained after receipt of the qualifying degree by the candidate will be considered, except as described in 193C—paragraph 4.1(7)“d.” Subprofessional work includes the time spent in drafting, as an engineering technician or engineering assistant or inspector, or in similar work under direct supervision, including work where the personal responsibility and technical knowledge required are small, that is, minor positions in which the responsibility is slight and the individual performance of a task that has been set and supervised by a supervisor is all that is required. Professional work includes the time during which the applicant was occupied in engineering work of higher grade and responsibility than that defined above as subprofessional work. Time spent in teaching engineering subjects in a college or university at the level of assistant professor or higher may be listed as professional work.

*d. Special work experience.* Work experience prior to graduation from college may be accepted toward satisfaction of professional experience requirements only as follows: Cooperative work programs administered by engineering colleges and verified on the transcript and internships administered by engineering colleges with a verifying reference from the internship supervisor will be considered as half-time credit, with a maximum allowance of 6 months (12 months of cooperative work experience or internship) applicable toward the satisfaction of professional experience requirements. An applicant’s advanced education, military experience, or both will be reviewed in order to determine if they are applicable toward the statutory requirements for experience.

*e. Advanced education.* An applicant who has earned a Master of Science degree that includes research experience, in addition to writing an associated thesis, from an institution in the United States of America with an accredited Bachelor of Science engineering degree program in the same discipline and has fulfilled the requirements for a Bachelor of Science degree may be granted a maximum of one-half year’s experience credit. An applicant who has earned a Doctor of Philosophy degree from an institution in the United States of America with an accredited Bachelor of Science engineering degree program in the same discipline may be granted a maximum of one year’s experience credit in addition to the one-half year for the master’s degree.

*f. Teaching experience.* Teaching of engineering subjects at the level of assistant professor or higher in an accredited engineering program may be considered as experience, provided the applicant’s immediate supervisor is a licensed professional engineer in the jurisdiction in which the college or university is located. If the applicant’s immediate supervisor is not a licensed professional engineer, a program of mentoring or peer review by a licensed professional engineer acceptable to the board must be demonstrated. Applicants using teaching or research as experience must have a minimum of four years of acceptable experience in research, industry, or consulting. The board shall consider the complexity of the project(s) presented, the degree of responsibility of the applicant within the project, and other factors the board deems relevant. Academic experience must demonstrate increasing levels of responsibility for the conduct and management of projects involving engineering research, development or application. The board reserves the right to contact employers for information about the applicant’s professional experience and competence.

*g. Joint applications.* Applicants requesting licensure both as a professional engineer and a land surveyor must submit a history of professional experience in both fields. Such histories will be considered separately on a case-by-case basis. The board does not grant full credit for concurrent experience in both professions.

**4.1(8)** Required examinations. All examinations are uniform examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES). The board may negotiate an agreement with an examination service to administer the examinations to applicants approved by the board, in which case applicants shall pay examination fees directly to the service.

*a. Fundamentals of Engineering examination (fundamentals examination).* The Fundamentals of Engineering examination is a written, eight-hour examination covering general engineering principles and other subjects commonly taught in accredited engineering programs.

*b. Principles and Practice of Engineering examination (professional examination).* The Principles and Practice of Engineering examination is a written, 8-hour examination designed to determine proficiency and qualification to engage in the practice of professional engineering only in a specific branch. The Principles and Practice of Engineering 16-hour Structural examination is a written, 16-hour examination designed to determine proficiency and qualification to engage in the practice of structural engineering. A separate examination shall be required for each branch in which licensure is granted. An applicant may obtain a Structural branch license by passing either the Principles and Practice of Engineering Civil (Structural) examination or the Principles and Practice of Engineering 16-hour Structural examination.

*c. Passing scores.* The board reviews test results for each examination and determines what level shall constitute a minimum passing score for that examination. In making its determination, the board generally is guided by the passing score recommended by the NCEES. The board fixes the passing score for each examination at a level which it concludes is a reasonable indication of minimally acceptable professional competence.

*d. Reexamination.* An applicant who fails an examination may request reexamination at the next examination period without reapplication to the board. If the applicant intends to retake the examination, the applicant must notify the examination service selected by the board to administer the examinations prior to the application due date for the examination.

*e. Failure to appear.* An applicant who fails to appear for an examination may sit for the examination the next time it is offered without reapplication provided the application will not be more than one year old at the time of the application due date for the examination and the applicant notifies the examination service selected by the board to administer the examinations prior to the application due date for the examination.

*f. Materials permitted in examination room.* For security reasons, applicants shall comply with requirements regarding materials permitted in the examination room as issued by the National Council of Examiners for Engineering and Surveying and provided to candidates prior to the examination.

*g. Release of examination results.* Results of any examination shall only be reported as pass or fail except that the candidate who fails an examination may be provided with the candidate's converted score and a diagnostic report indicating areas of weakness, as available.

**4.1(9)** Examination subversion. Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of licensure in Iowa, be barred from engineering licensure and examinations in Iowa, or be subject to the imposition of other sanctions the board deems appropriate.

*a.* Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

(1) Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(2) Conduct that violates the standards of test administration, such as communicating with any other examination candidate during the administration of the licensing examination; communicating with others outside of the examination site during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the administration of the examination; or having in one's possession during the administration of the

licensing examination any device or materials that might compromise the security of the examination or examination process, such as calculating and computing devices not on the list of devices approved by the examination provider or provided by the examination provider.

(3) Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination or impersonating an examination candidate or having an impersonator take the licensing examination on one's behalf.

*b.* Any examination candidate who wishes to appeal a decision of the board under this subrule may request a contested case hearing. The request for hearing shall be in writing, shall briefly describe the basis for the appeal, and shall be filed in the board's office within 30 days of the date of the board decision that is being appealed. Any hearing requested under this subrule shall be governed by the rules applicable to contested case hearings under 193—Chapter 7.

[ARC 7753B, IAB 5/6/09, effective 6/10/09; ARC 9285B, IAB 12/15/10, effective 1/19/11; ARC 9286B, IAB 12/15/10, effective 1/19/11; ARC 9288B, IAB 12/15/10, effective 1/19/11]

**193C—4.2(542B) Requirements for licensure by comity.** A person holding a certificate of licensure to engage in the practice of engineering issued by a proper authority of a jurisdiction or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of Iowa Code section 542B.14 and who has met standards determined by the board to be substantially equivalent to those required of applicants for initial licensure in this state may, upon application, be licensed without further examination. When determining whether the licensing standards satisfied by a comity applicant are substantially equivalent to those required in Iowa, the board considers each of the four licensing prerequisites in Iowa Code section 542B.14(1) individually. The licensing standards satisfied by the comity applicant must accordingly be equal or superior to those required in Iowa for education, fundamentals examination, experience, and professional examination. Unless expressly stated in this chapter, the board will not consider an applicant's superior satisfaction of one licensing prerequisite, such as a higher level of education than is required in Iowa, as resolving an applicant's lack of compliance with another prerequisite, such as professional examination. Comity applicants are governed by the same standards as are required of applicants for initial licensure in Iowa.

**4.2(1) References.** An applicant for licensure by comity shall submit references on forms provided by the board to verify at least four years of satisfactory experience after the receipt of the qualifying degree. This experience must be under the supervision of a licensed professional engineer, or the applicant must provide unlicensed tutelage references verifying at least four years of satisfactory engineering experience, as provided in paragraph 4.1(7) "a." The board reserves the right to contact employers for information about the applicant's professional experience and competence.

**4.2(2) Basis for evaluation of applications.** Applications for licensure by comity will be evaluated on the following basis:

*a.* The applicant's record of education, references, practical experience, and successful completion of approved examinations will be reviewed to determine if it currently satisfies the substantive requirements of Iowa Code section 542B.14. In reviewing the education, references, and practical experience of comity applicants, the board will use the same criteria used by the board to determine the eligibility of a candidate for the Principles and Practice of Engineering examination; or

*b.* The applicant's licensure in a jurisdiction other than Iowa will be reviewed to determine if it was granted only after satisfaction of requirements substantially equivalent to those that are required of applicants for initial licensure in Iowa by Iowa Code section 542B.14.

**4.2(3) Evaluation of comity application process.**

*a.* First, the applicant for licensure by comity from a jurisdiction other than Iowa must meet or exceed the education requirements set forth in Iowa Code section 542B.14. In addition, if the applicant did not graduate from an Accreditation Board of Engineering and Technology (ABET)/Engineering Accreditation Commission (EAC) or Canadian Engineering Accreditation Board (CEAB) approved curriculum, the applicant must have completed a year of practical experience satisfactory to the board. This year of experience must be in addition to the four years of practical experience in engineering work as required in paragraph 4.2(3) "d."

*b.* Second, the applicant must have successfully completed the Fundamentals of Engineering examination.

(1) An applicant who graduated from a satisfactory engineering program and who has 25 years or more of work experience satisfactory to the board shall not be required to take the Fundamentals of Engineering examination.

(2) An applicant who has earned a Doctor of Philosophy degree from an institution in the United States of America with an accredited Bachelor of Science engineering degree program in the same discipline, or a similar doctoral degree in a discipline approved by the board, shall not be required to take the Fundamentals of Engineering examination.

*c.* Third, the applicant must have successfully completed the Principles and Practice of Engineering examination.

*d.* Fourth, the applicant must have a record of four years or more of practical experience in engineering work which is of a character satisfactory to the board. This experience must have been obtained after the receipt of the appropriate education and must meet the requirements for practical experience found at paragraph 4.1(7) “*a.*”

*e.* While the board will consider evidence presented by a comity applicant on non-NCEES examinations successfully completed in a foreign country, the non-NCEES examination will be compared with the appropriate NCEES examination. A non-NCEES professional examination, for instance, must be designed to determine whether a candidate is minimally competent to practice professional engineering in a specific branch of engineering, such as civil, structural, electrical, or mechanical engineering. The examination must be written, objectively graded, verifiable, and developed and validated in accordance with the testing standards of the American Psychological Association or equivalent testing standards. Free-form essays and oral interviews, while valuable for certain purposes, are not equal or superior to NCEES examinations for reasons including the subjective nature of such procedures, lack of verifiable grading standards, and heightened risk of inconsistent treatment.

**4.2(4) Education and experience requirements.**

*a.* For applicants who were originally licensed in a jurisdiction other than Iowa prior to July 1, 1988, the board will employ the following chart to determine if the applicant’s licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant’s original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

| EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS<br>Who were licensed prior to July 1, 1988    |   |  |
|---|---|--|
| If the applicant’s educational level was:   | The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination: | The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination: |
| No post-high school education   | 8   | 4  |
| Postsecondary study in mathematics or physical sciences                                     |   |  |
| One year  | 7   | 4  |
| Two years   | 6   | 4  |
| Three years   | 5   | 4  |
| Four years  | 3   | 4  |
| Four-year BS degree in mathematics or physical sciences plus master’s degree in engineering | 0   | 4  |

| EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS<br>Who were licensed prior to July 1, 1988       |   |  |
|--|---|--|
| If the applicant's educational level was:  | The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination: | The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination: |
| Postsecondary study in engineering technology programs and architecture                        |   |  |
| One year   | 7   | 4  |
| Two years  | 5.5   | 4  |
| Three years  | 4   | 4  |
| Four-year degree in a nonaccredited engineering technology program or BA in architecture       | 2.5   | 4  |
| Four-year degree in an accredited engineering technology program                               | 2   | 4  |
| Bachelor of architecture, four years or more   | 2   | 4  |
| Four-year degree in engineering technology or architecture plus master's degree in engineering | 0   | 4  |
| Postsecondary study in a nonaccredited engineering program                                     |   |  |
| One year   | 7   | 4  |
| Two years  | 5   | 4  |
| Three years  | 3   | 4  |
| Four-year BS degree  | 1   | 4  |
| Four-year degree in a nonaccredited engineering program plus master's degree in engineering    | 0   | 4  |
| Postsecondary study in an accredited engineering program                                       |   |  |
| Two years  | 6   | 4  |
| Three years  | 3   | 4  |
| Four-year degree in an accredited engineering program  | 0   | 4  |

*b.* For applicants who were originally licensed in another jurisdiction and who meet the requirements of Iowa Code section 542B.14(1)(a)(3), the board will employ the following chart to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant's original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

| EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS<br>Who meet the requirements of Iowa Code section 542B.14(1)(a)(3) |   |  |
|--|---|--|
| If the applicant's educational level was:  | The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination: | The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination: |
| College or junior college (mathematics or physical sciences)   |   |  |
| Two years  | 6   | 4  |

| EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS<br>Who meet the requirements of Iowa Code section 542B.14(1)(a)(3) |   |  |
|--|---|--|
| If the applicant's educational level was:  | The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination: | The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination: |
| Three years  | 5   | 4  |
| Four-year BS degree  | 3   | 4  |
| Four-year BS degree plus master's degree in engineering  | 0   | 4  |
| All engineering technology programs and architecture   |   |  |
| Two years  | 6   | 4  |
| Three years  | 5   | 4  |
| Four-year degree, nonaccredited technology or BA in architecture   | 3   | 4  |
| Four-year degree, accredited technology  | 2   | 4  |
| Four-year degree or more, bachelor of architecture   | 2   | 4  |
| Four-year BS degree, technology or architecture plus master's degree in engineering                              | 0   | 4  |
| Engineering program, nonaccredited   |   |  |
| Two years  | 6   | 4  |
| Three years  | 3   | 4  |
| Four-year BS degree  | 1   | 4  |
| Four-year BS degree plus master's degree in engineering  | 0   | 4  |
| Engineering program, accredited  |   |  |
| Two years  | 6   | 4  |
| Three years  | 3   | 4  |
| Four-year BS degree  | 0   | 4  |

c. For all other applicants who were originally licensed in a jurisdiction other than Iowa on or after July 1, 1988, the board will employ the chart found at subrule 4.1(6) to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those which are required by Iowa Code section 542B.14.

d. For purposes of this subrule, an applicant's master's degree in engineering must be from an institution in the United States of America with an accredited bachelor's degree in the same curriculum, and the master's degree candidate must be required to fulfill the requirements for the bachelor's degree in the same area of specialization.

[ARC 7753B, IAB 5/6/09, effective 6/10/09; ARC 9287B, IAB 12/15/10, effective 1/19/11]

**193C—4.3(542B) Requirements for a licensee requesting additional examination.** A person holding an active certificate of licensure to engage in the practice of engineering issued by the state of Iowa may, upon written request and payment of the application and examination fees, take additional examinations in other branches of engineering without submitting a formal application to the board as described for initial or comity licensure.

These rules are intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

[Filed 10/24/01, Notice 8/8/01—published 11/14/01, effective 1/1/02]

[Filed 9/12/02, Notice 6/12/02—published 10/2/02, effective 11/6/02]

[Filed 11/21/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]

[Filed 4/22/04, Notice 2/4/04—published 5/12/04, effective 6/16/04]

[Filed 9/22/05, Notice 6/8/05—published 10/12/05, effective 11/16/05]

[Filed 11/29/06, Notice 8/16/06—published 12/20/06, effective 1/24/07]

[Filed 11/29/07, Notice 8/15/07—published 12/19/07, effective 1/23/08]

[Filed 4/25/08, Notice 12/19/07—published 5/21/08, effective 6/25/08]

[Filed ARC 7753B (Notice ARC 7434B, IAB 12/17/08), IAB 5/6/09, effective 6/10/09]

[Filed ARC 9285B (Notice ARC 9021B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 9286B (Notice ARC 9022B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 9288B (Notice ARC 9024B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 9287B (Notice ARC 9023B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

CHAPTER 40  
IOWA JOBS MAIN STREET PROGRAM

**261—40.1(83GA,SF2389) Authority.** The authority for establishing the Iowa jobs main street program is provided in 2010 Iowa Acts, Senate File 2389, sections 10 and 68.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.2(83GA,SF2389) Purpose.** The purpose of the program is to fund projects that are currently on the department's highest-priority list. The highest-priority list shall include those projects that have previously applied for funding consideration or have received partial funding for façade master plans to rehabilitate storefronts in Iowa main street districts; that complete streetscape projects where planning and the majority of funding are already secure; that are unfunded main street challenge grant projects; and that are other building rehabilitation projects.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.3(83GA,SF2389) Definitions.**

*"Department"* means the Iowa department of economic development.

*"Director"* means the director of the department or the director's designee.

*"Eligible applicant"* means a department-designated main street organization that participates in the Iowa main street program described by 261—Chapter 39 and that has a current contract with the department for participation in the program.

*"Grant"* means funds received through the program as evidenced by an agreement with the department.

*"Grantee"* means any eligible applicant receiving funds under the program.

*"Highest-priority list"* means the list of projects developed under these rules that contains a description and prioritization of main street projects eligible for funding under the program.

*"Program"* means the Iowa jobs main street program.

*"Project"* means a project that has previously applied to the department under its main street program, sustainable community fund, or downtown revitalization fund.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.4(83GA,SF2389) Highest-priority list.** The director shall compile at least annually a highest-priority list of projects proposed for funding and shall publish the highest-priority list on the department's Web site.

**40.4(1) Eligibility.** To be eligible to be included on the highest-priority list, the proposed project must be managed or owned by an eligible applicant, be eligible for main street funding described in 261—Chapter 39, and meet one of the following requirements:

*a.* The project has previously applied for funding consideration or has received partial funding for façade master plans to rehabilitate storefronts in Iowa main street districts through the department's community development programs;

*b.* The project is a complete streetscape project for which planning and the majority of funding is already secure;

*c.* The project is an unfunded project through the main street challenge grant described in 261—Chapter 39; or

*d.* The project is a building rehabilitation project.

**40.4(2) Priority.** Proposed projects shall be prioritized based on the following criteria:

*a.* The eligible applicant is in good standing with the department, that is, the eligible applicant is conforming with contractual requirements or has satisfactorily performed under prior awards.

*b.* The project is currently under construction or has adequate development of construction documents so that it could be under construction within 60 days of award. For purposes of this subrule, "under construction" shall mean that construction contracts have been executed by the grantee or its subrecipients.

*c.* The project could be completed within the grant period of 18 months from the date of award.

- d. The project has demonstrated a broad base of funding outside the public investment.
- e. The project is utilizing, intends to utilize, or has utilized state or federal historic tax credits, as evidenced by appropriate filings to the state historic preservation office.
- f. The project conforms to the state of Iowa's Green Streets Criteria, version 2.0, published in August 2009.
- g. The project is considered a key structure or group of structures in a historic commercial district.
- h. The project, if funded, would likely result in job creation or revenue increases for the community.
- i. The estimated costs of the project are documented and credible.

**40.4(3) Additional information.** The department may request additional information from eligible applicants in developing the highest-priority list. Failure on the part of an eligible applicant to provide additional information to the department in the form and by the date requested may result in an eligible applicant's project not being included in the highest-priority list.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.5(83GA,SF2389) Funding.** All Iowa jobs funds shall be awarded and used as specified in 2009 Iowa Acts, Senate File 376, and 2010 Iowa Acts, Senate File 2389, and these rules. Funds shall be paid on a reimbursement basis as described in the grant agreement. Any portion of an amount awarded for projects that remains unexpended upon completion of the project may be reallocated to other projects on the highest-priority list at the discretion of the director.

**40.5(1) Timing of grants.** The funding of projects on the highest-priority list under the program is contingent upon the availability of funds allocated to the department. When funds are available, the department shall fund main street projects on the highest-priority list in the order they are listed and subject to the conditions of these rules.

**40.5(2) Grant period.** A grantee may receive a grant for a term not to exceed 18 months unless otherwise agreed upon by the department and included as part of the grant agreement or amendment thereof.

**40.5(3) Compliance and termination.** Continued funding through the grant period is contingent upon acceptable audit and monitoring reports received by the department and the grantee's compliance with the terms and conditions of the grant agreement. The department may terminate or suspend funding, in whole or in part, if there is a substantial violation of a specific provision of the agreement or these rules and corrective action has not been taken by the grantee.

**40.5(4) Allowable cost.** Funds granted by this program to a grantee shall be applied toward the project described in the grant agreement.

**40.5(5) Ineligible costs.** In addition to any limitations described in the grant agreement, funds shall not be used for the following:

- a. Expenditures made prior to the date of the award.
- b. The refinancing of a loan existing prior to the date of the award.
- c. Administrative costs of the grantee.
- d. Routine, recurring maintenance or operational expenses of the project.
- e. Purchase of real property.

**40.5(6) Amendments.** Any substantive change to a grant agreement shall be considered an amendment. Amendments must be requested in writing by the grantee and shall not be considered effective until the director has approved and executed such an amendment. All amendments must be executed in conformance with the grant agreement and these rules.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.6(83GA,SF2389) Financial management.**

**40.6(1) Audits.** All grants under the program are subject to audit. Grantees shall be responsible for the procurement of audit services and for the payment of audit costs. Audits may be performed by the state auditor's office or by a qualified independent auditor. Representatives of the department and the state auditor's office shall have access to all books, accounts, documents and records belonging to, or in use by, grantees pertaining to the receipt of a grant under these rules.

**40.6(2) Record retention.** All records shall be retained for five years beyond the grant period or longer if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the record. In these instances, the records shall be retained until the litigation, audit or claim has been resolved.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.7(83GA,SF2389) Reports.**

**40.7(1) General reporting requirements.** Reports shall include information required by the grant agreement and shall be submitted to the department at intervals described in the grant agreement. The reports shall assess the use of funds in accordance with the program's objectives and progress of the program activities.

**40.7(2) Job creation.** The grantee shall report the total number of jobs created as a result of the project along with other information related to the quality of such jobs, including hours and wages, as requested by the department. For purposes of this rule, the number of jobs created may be calculated by determining which new employment positions created and filled would not have been continued were it not for this program. This would include both permanent and temporary positions filled by the grantee, a contractor or a subcontractor, including construction contractors and their employees. This requirement shall be in effect for two years beyond the project's completion.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.8(83GA,SF2389) Signs.** Each project shall recognize in a prominent location and manner the fact that the project was made possible, in part, through a grant from the Iowa jobs program. During the construction period, the recognition (including a display of the Iowa jobs logo) may be located on temporary signage. The completed project shall feature a permanent acknowledgment, such as a plaque or similar commemoration. Other benefactors of the project may be similarly acknowledged as well. The department may provide funding to the grantees for these signs using funds appropriated to the department through 2010 Iowa Acts, Senate File 2389, sections 10 and 68.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.9(83GA,SF2389) Noncompliance.** If the department finds that a grantee is not in compliance with the requirements under this program, the grantee will be required to refund to the state all disallowed costs. Reasons for a finding of noncompliance include, but are not limited to, a finding that the grantee is using program funds for unauthorized activities, has failed to complete approved activities in a timely manner, has failed to comply with applicable laws and regulations or the grant agreement, or lacks the capacity to carry out the purposes of the program.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

**261—40.10(83GA,SF2389) Great places consideration.** In compliance with Iowa Code section 303.3C, projects that are identified in an Iowa great places agreement developed pursuant to Iowa Code section 303.3C that are otherwise eligible projects under these rules shall receive additional consideration for placement on the highest-priority list. Such additional consideration shall be afforded only to those projects that have been identified as an Iowa great place under Iowa Code section 303.3C within the past three years.

[ARC 8922B, IAB 6/30/10, effective 6/11/10; ARC 9291B, IAB 12/15/10, effective 1/19/11]

These rules are intended to implement 2010 Iowa Acts, Senate File 2389, sections 10 and 68.

[Filed Emergency ARC 8922B, IAB 6/30/10, effective 6/11/10]

[Filed ARC 9291B (Notice ARC 8921B, IAB 6/30/10), IAB 12/15/10, effective 1/19/11]



## **CITY DEVELOPMENT BOARD[263]**

[Chapters 1 and 2, IAC 7/27/77, superseded by Chapters 1 to 4, effective 4/12/78]  
[Prior to 1/9/91, City Development Board[220]]

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VOLUNTARY ANNEXATION

**263—7.1(368) When board approval required.** Applications for voluntary annexation of territory within another city's urbanized area and voluntary annexation requests including some property without the owner's consent must be approved by both the city receiving the territory and the city development board.

**263—7.2(368) Contents of request.** A request for board approval of an application for voluntary annexation of territory within another city's urbanized area shall be initiated pursuant to Iowa Code section 368.7 and shall include the following:

**7.2(1) Landowner's application.** Written application(s) for annexation of the territory must include:

*a.* A request for annexation of identified property, dated and signed by all owners of record or their authorized representatives;

(1) In the event that voluntary annexation is sought for a parcel of land which is being sold on contract, the contract seller and the contract buyer must both approve the annexation application;

(2) In the event that property for which annexation is sought is owned by a business organization or entity other than a natural person or persons, documentation establishing that the applicant is authorized to act on behalf of the owner shall be provided with the application.

*b.* A legal description of the property for which annexation is sought; and

*c.* A map of the property for which annexation is sought.

**7.2(2) Documentation of the city's approval of the application.** The following documentation must be included in a city's request for board approval of a voluntary annexation application:

*a.* A general statement of the proposal, briefly describing the current and expected use of the annexation territory, any services which the city currently provides to the territory, and the reasons for the property owners' request for annexation, if known.

*b.* A statement indicating whether the annexation territory is subject to an existing moratorium agreement and, if so, whether the proposed annexation is consistent with the terms of that agreement.

*c.* A complete legal description of the territory for which application is made, including the right-of-way to the center line of all secondary roads adjoining the annexation territory, unless a 28E agreement between the county and the city allowing exclusion of the right-of-way is in place and a copy of the agreement is included with the application, as required by Iowa Code section 368.1(14).

*d.* Prior to approval of a voluntary annexation application by the city council, the city shall provide a copy of the landowner's annexation application and the legal description of the entire annexation territory to the county auditor with a request that the auditor verify the accuracy and completeness of the legal description and verify current ownership of the parcel(s) involved. The auditor's response shall be included in the city's filing with the board. If the auditor fails to respond to the request within 14 days, the city may provide a copy of the request and a statement indicating that no response was received in lieu of the auditor's verification.

*e.* A map clearly showing the entire boundary of the existing city, the entire annexation territory, adjacent roadways, and the relationship of the territory to the annexing city and, if the annexation territory is within the urbanized area of another city, the relationship of the territory to the neighboring city. More than one map may be submitted if necessary to provide all of the required information to the board.

*f.* A statement indicating whether state-owned property or county-owned road right-of-way has been included in the proposal pursuant to Iowa Code section 368.5 and, if so, certification that the city has complied with the notice requirement of that section.

*g.* Certification that the city has complied with the notice requirements of Iowa Code section 368.7, including proof of mailing of the application and affidavit of publication of the required public notice, and, if railway right-of-way is included or public land is included without the written consent of the agency with jurisdiction over the public land, certification of notice to the owner as required by Iowa Code section 368.7(1). For purposes of calculating the required period of notice, "business days" shall

include Monday through Friday of each week, excluding “legal holidays” as set forth in Iowa Code section 4.1(34).

*h.* The city may, but is not required to, include a provision for transition of the imposition of city taxes against property within the annexation territory. The provision shall not allow greater exemption for taxation than the tax exemption formula schedule provided under Iowa Code section 427B.3, subsections 1 through 5, and shall be applied in the levy and collection of taxes. The provision may also allow for the partial provision of city services during the time in which the exemption from taxation is in effect.

*i.* A resolution of the council of the city to which the application for annexation is directed approving the application. If the council opts to provide for transition of the imposition of city taxes, the terms of the transition shall be included in the resolution.

**7.2(3)** *Additional information to accompany requests which include land area without the consent of the owner(s).* In addition to the information which must be filed pursuant to subrule 7.2(2), a city’s request that includes property without the consent of the owner(s) must provide the following additional information within the application submitted to the board:

*a.* The names and addresses of all owners of land included without the owners’ consent and a legal description of all land owned by each nonconsenting owner;

*b.* Prior to filing the annexation application, the city shall provide a copy of the legal description and map of the annexation territory and the list of property owners identified by the city to the county auditor with a request that the auditor verify the accuracy and completeness of the legal description and verify current ownership of the parcel(s) involved. A copy of the auditor’s response shall be included in the application. If the auditor fails to respond to the request within 14 days, the city may provide a copy of the request and a statement indicating that no response was received in lieu of the auditor’s verification;

*c.* The acreage of each parcel or parcels owned by each voluntary applicant and nonconsenting landowner, the acreage of any railroad right-of-way included pursuant to Iowa Code section 368.7(1), and the acreage of any state- or county-owned property included pursuant to Iowa Code section 368.5;

*d.* A calculation showing the percentage of the territory for which voluntary annexation applications have been received by the city and the percentage of territory included without the consent of the owner(s), prepared in a manner consistent with subrule 7.8(2);

*e.* A map indicating the relationship of the parcels included without the consent of the owner(s) to the rest of the territory and to the city;

*f.* Certification that the city has complied with the notice and public hearing requirements of Iowa Code section 368.7(1). For purposes of calculating the required period of notice, “business days” shall include Monday through Friday of each week, excluding “legal holidays” as set forth in Iowa Code section 4.1(34); and

*g.* A statement in the city council’s resolution approving the annexation which sets forth the reason(s) that land is included in the proposal without the consent of the owner(s).

[ARC 9278B, IAB 12/15/10, effective 1/19/11]

**263—7.3(368) Filing of request.** A city seeking board approval of a voluntary annexation application shall file the original and 15 copies of its request and all supporting documentation. The request will be deemed filed with the board on the date it is received by board staff. The board shall return a file-stamped copy of the request to the filing city.

**263—7.4(368) Staff review of filing.** Within two weeks of a city’s filing of a request for approval of a voluntary annexation, board staff shall review the request to determine whether the city has included all of the information required by rule 7.2(368). If the request is found to be incomplete, staff shall notify the filing city, identifying the required item(s) omitted and offering the city an opportunity to provide the omitted information prior to submission of the request to the board.

**263—7.5(368) Submission to the board by staff—notice.** A request for the voluntary annexation of property within an urbanized area will be submitted to the board for consideration at the first board

meeting conducted 31 or more days after the filing of the request. If no other application for voluntary annexation or petition for involuntary annexation containing common territory is filed with the board within 30 days of the filing of the application, the board will proceed under rule 7.7(368). If another application or petition containing common territory is filed with the board within 30 days, the board will proceed under rule 7.9(368). The board shall provide notice of all meetings at which the board will consider the city's request by regular mail to the filing city, each city whose boundary is within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, each affected public utility, and the regional planning authority which includes the territory. At the request of the annexing city, the board may proceed under rule 7.7(368) at a board meeting less than 31 days after the filing of the application, except that the filings to complete an annexation approved by the board will only be made if no other annexation proposal for any or all of the territory is filed with the board within 30 days of the filing of the application. If a proposal for annexation to another city for all or part of the territory is received within 30 days, the board will proceed under rule 7.9(368).

**263—7.6(368) Amendment of application.**

**7.6(1) *No addition of territory.*** After a request for approval of an application for voluntary annexation has been filed with the board, it may not be amended to include additional territory.

**7.6(2) *Deletion of territory.*** A city may, upon its own motion or at the request of the board, seek amendment of an application for voluntary annexation to delete one or more of the parcels included in the proposal as filed with the board.

*a.* A motion to amend an application for voluntary annexation may be made at any time prior to issuance of the board order approving or denying the application.

*b.* The board shall provide notice of a proposed amendment by regular mail to all owners of land included in the application, each city whose boundary is within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, each affected public utility, the regional planning authority which includes the territory, and all other parties of record in the board proceeding.

*c.* A party to the proceeding may file a resistance to the motion to amend within 14 days of the date of service of notice of the proposed amendment.

*d.* The board may grant a request to amend an application if it determines that the request serves the public interest.

**263—7.7(368) Board proceedings on unanimous voluntary applications when no voluntary application or petition for involuntary annexation or incorporation of common territory is received within 30 days of the initial filing.**

**7.7(1) Applicability.** If all territory included within the city's application is included upon application of the owner, by notice to the owner of railway right-of-way pursuant to Iowa Code section 368.7(1), or by notice to the Iowa attorney general or a county attorney pursuant to Iowa Code section 368.5, the application shall be processed pursuant to this rule.

**7.7(2) Initial board review.** The board shall review each request for approval of an application for voluntary annexation of territory within an urbanized area to determine compliance with the requirements of Iowa Code chapter 368 and these rules.

**7.7(3) Information considered.** The board shall provide any interested person or party an opportunity to submit written comment on the application prior to or at the time of board consideration of the request for approval. The board may:

*a.* Allow an opportunity for oral comment on the application;

*b.* Consider public documents; and

*c.* Request additional information from affected cities, counties or persons, including any of the information required to be included in a petition for involuntary city development action.

**7.7(4) Criteria.** The board may consider the criteria for approval of involuntary city development actions, as set forth in Iowa Code sections 368.16 and 368.17, in acting on an application for voluntary annexation.

7.7(5) If the request is found to be incomplete, the board may request further information from the applicant or the filing city or may dismiss the request, stating in its order the reason(s) for the dismissal.

7.7(6) If annexation of the territory is statutorily barred pursuant to Iowa Code section 368.17, the board shall deny the application, stating in its order the reason(s) for the denial.

7.7(7) If the board approves an application for voluntary annexation of territory within the urbanized area of another city, the board shall issue a written decision and file the decision with the clerk of the annexing city, other cities within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, the regional planning authority, each affected public utility, the state department of transportation, and all other parties of record in the board's proceeding. Upon expiration of the time for appeal, the board shall file with the secretary of state and record with the county recorder of each county containing a portion of the city or territory involved copies of the board's proceedings, as required by Iowa Code section 368.20(2).

7.7(8) If the board denies an application, it shall issue an order setting forth the reason(s) for the denial and shall provide a copy to the filing city.

**263—7.8(368) Board proceedings on voluntary annexation requests which include land area without the consent of the landowner(s).**

7.8(1) *General rule.* Territory comprising railway right-of-way or territory comprising not more than 20 percent of the land area may be included without the consent of the owner to avoid creating an island or to create more uniform boundaries.

7.8(2) *Calculation of proportion of land area included without the consent of the owner(s).*

a. Only contiguous land area may be considered for purposes of calculating the amount of the land area which may be included without the owner's consent.

b. The area of the territory that is public land included without the written consent of the agency with jurisdiction over the public land shall not be used to determine the percentage of territory that is included with the consent of the owner and without the consent of the owner.

7.8(3) *Board action on proposal.* The board shall review the request to determine compliance with the requirements of Iowa Code chapter 368 and these rules.

a. If the request is found to be incomplete, the board may request further information from the applicant or the filing city or may dismiss the request.

b. If the request is found to be in proper form and to contain all required information, the board will conduct a public hearing on the request, providing notice of the meeting by regular mail sent at least ten days prior to the hearing to all owners of land included in the annexation proposal, the annexing city, other cities within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, the regional planning authority containing a portion of the territory, each affected public utility, and the state department of transportation.

The board hearing shall be conducted informally. Representatives of the city requesting the annexation shall be given an opportunity to explain the proposal, the city's reason for including property without the consent of the owner(s), and any other information the city believes will assist the board in acting on the proposal. The county, all owners of property within the territory proposed for annexation, the regional planning authority, affected public utilities, and any other person affected by the annexation will be provided an opportunity to submit information to the board. The board may request additional information from the city, county or other persons, including any of the information required to be included in a petition for involuntary city development action.

c. The board shall consider whether the proposal serves the public interest and may consider the criteria for approval of involuntary city development actions, as set forth in Iowa Code sections 368.16 and 368.17, in acting on a request for voluntary annexation which includes the property of nonconsenting owners. The board may not approve a request for voluntary annexation of territory which includes the property of nonconsenting owners unless the board finds that the land of the nonconsenting owners was included in order to (1) avoid creating an island, or (2) create more uniform boundaries.

d. A request for voluntary annexation of territory which includes the property of nonconsenting owners shall not be approved unless four members of the board vote in favor of the proposal.

*e.* If the board approves a request for voluntary annexation of territory which includes the property of nonconsenting owners, the board shall issue a written decision and file the decision with the clerk of the annexing city, other cities within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, the regional planning authority, each affected public utility, the state department of transportation, and any other party of record in the board proceeding. Upon expiration of the time for appeal, the board shall file with the secretary of state and record with the county recorder of each county containing a portion of the city or territory involved copies of the board's proceedings, as required by Iowa Code section 368.20(2).

*f.* If the board denies the request, an order shall be issued setting forth the reasons for the denial, and a copy shall be provided to the clerk of the annexing city, other cities within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, the regional planning authority, each affected public utility, the state department of transportation, and any other party of record in the board's proceeding.

[ARC 9278B, IAB 12/15/10, effective 1/19/11]

**263—7.9(368) Board proceedings on voluntary applications when one or more voluntary applications or involuntary petitions for annexation of common territory are received within 30 days of the initial filing.**

**7.9(1)** Initial board review. The board shall review the application(s) and petition(s) to determine compliance with the requirements of Iowa Code chapter 368 and these rules.

**7.9(2)** Dismissal. If an application or petition does not meet the requirements of Iowa Code chapter 368 or these rules, the board may dismiss the application or petition or request additional information from the applicant or petitioner. If only one application or petition remains before the board following such dismissal, the board will proceed on that filing as if no competing application or petition had been filed.

**7.9(3)** Hearing. If competing application(s) and petition(s) are found to be in proper form, the board will consider the voluntary application(s). The board may appoint a local committee pursuant to Iowa Code section 368.14 and shall conduct a public hearing pursuant to the procedure set forth in paragraph 7.8(3) "b" for hearings on voluntary applications including property without the consent of the owner(s).

**7.9(4)** Criteria for decision. Within 90 days of receipt of the application, the board or committee shall meet to assess the application and evidence received at the public hearing. If the application meets the applicable requirements of Iowa Code chapter 368, the board or committee shall approve the application unless the board makes one of the following findings by a preponderance of the evidence:

- a.* The application was filed in bad faith;
- b.* The application as filed is contrary to the best interests of the citizens of the urbanized area; or
- c.* The city that received the application cannot, within a reasonable period of time, meet its obligation to provide services to the territory to be annexed sufficient to meet the needs of the territory.

**7.9(5)** Decision if approved. If the board or committee approves a voluntary application considered under Iowa Code subsection 368.7(4), the board shall issue a written decision and file the decision with the clerk of the annexing city, other cities within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, the regional planning authority, each affected public utility, the state department of transportation, and any other party to the board's proceeding. Upon expiration of the time for appeal, the board shall file with the secretary of state and record with the county recorder of each county containing a portion of the city or territory involved copies of the board's proceedings, as required by Iowa Code section 368.20(2).

**7.9(6)** Decision if statutorily barred. If annexation of the territory is statutorily barred under Iowa Code section 368.17, the board or committee shall deny the application, stating in its order the reason(s) for the denial. An annexation request denied pursuant to this rule may not be converted to an involuntary petition, pursuant to subrule 7.9(7).

**7.9(7)** Action if not approved. If the application is not approved or is denied pursuant to subrule 7.9(6), the board shall issue an order setting forth its reason(s) for failing to approve the application and requiring conversion of the application into an involuntary petition. An application that contains

some land without the consent of the owner to avoid the creation of an island or to create more uniform boundaries, that is considered by a committee, shall not be approved unless at least four of the board members and at least one-half of the local representatives vote in favor of the proposal. The city shall within 30 days withdraw its application or convert its application into an involuntary petition containing all information required to be included in such petitions by Iowa Code section 368.11 and these rules.

**7.9(8)** Following conversion of the application into an involuntary petition, the board shall order appointment of a special local committee to consider the application and all pending petitions for annexation of common territory, pursuant to Iowa Code section 368.14A. Committee appointments shall be made by resolution of the appropriate governing bodies within 45 days of issuance of the board's order. Each resolution shall state that the local representative selected is a qualified elector of the city or territory represented or, if none of the qualified electors of the territory will accept the appointment or the territory has no resident qualified electors, that the representative owns property within the territory. Copies of the resolutions shall be submitted to the board. In the event a city or county fails to timely notify the board of appointment of its local representative, the committee may conduct its proceedings in the absence of that local representative so long as a quorum is present.

**7.9(9)** The special local committee shall conduct a public hearing to receive evidence and comment on all applications and petitions pending before it. The order of presentation shall be determined by the committee prior to commencement of the hearing. The hearing shall be conducted in accordance with the rules for committee proceedings set forth in 263—Chapter 9.

**7.9(10)** The committee shall, within a reasonable time following conclusion of the public hearing, meet to determine appropriate means to resolve the common territory issues among the applications and petitions before it.

*a.* The committee shall resolve common territory issues by amending or denying one or more of the pending proposals.

*b.* Upon resolution of the common territory issues, the committee shall proceed with consideration of each remaining petition in accordance with Iowa Code sections 368.16 and 368.17 and these rules.

**7.9(11)** The committee shall issue a separate decision setting forth its findings and conclusions relating to each of the petitions. The committee shall file its decision with the board and promptly notify the parties of the decision, as required by Iowa Code section 368.19.

**7.9(12)** Upon receipt of a committee decision approving all or a portion of a petition, the board shall complete the procedural steps set forth within 263—Chapter 10.

**263—7.10(368) Board proceedings on voluntary annexation applications containing common territory with a petition for involuntary annexation filed more than 30 days after the petition.**

**7.10(1)** The board will receive the application and table action on it until processing of the petition is complete.

**7.10(2)** Same city. If the application proposes to annex territory to the same city filing the petition, the board may proceed on the application under rule 7.7(368).

**263—7.11(368) Costs.** The cost of recording the board order, if the annexation is approved, shall be borne by the city to which territory is annexed.

**263—7.12(368) Board proceedings on boundary adjustments between cities by petition and consent.**

**7.12(1) General rule.** A request for board approval to sever real property from one city and to annex the same real property to another city shall be initiated pursuant to 2010 Iowa Acts, House File 2376. Contiguous property may be combined within the same request.

**7.12(2) Contents of petition.** The petition under this rule shall be in substantially the same form as an application under Iowa Code section 368.7 and rule 263—7.2(368). Additionally, if the city council of either city conditioned approval of the petition upon an agreement entered into by the cities providing for the transition of property taxes or the sharing of property tax revenues from the property described in the petition, the agreement shall be filed with the board at the same time the approved petition is filed.

**7.12(3) Initial board review.** The board shall review each petition to sever real property from one city and to annex the same real property to another city in order to determine compliance with the requirements of Iowa Code section 368.7 and these rules. The board shall notify both cities and the real property owner(s) of the board's initial review of the severance and annexation petition. If the petition does not meet the requirements of Iowa Code section 368.7, the board may request additional information before making a final decision or may dismiss the petition. If the application is found to be in proper form, the board shall hold a public hearing on the severance, annexation, and any agreement between the cities.

**7.12(4) Public hearing.** The board shall give notice of the public hearing in the same manner as notice of a public meeting under Iowa Code section 368.11, subsection 5. The board shall conduct a public hearing pursuant to the procedure set forth in paragraph 7.8(3) "b" for hearings on voluntary applications.

**7.12(5) Decision criteria.** The board shall consider whether the request serves the public interest and may consider the criteria for approval of involuntary city development actions as set forth in Iowa Code sections 368.16 and 368.17. The board may approve or deny only the severance and annexation of the real property described in the petition. The board may approve the petition only if the board also approves any agreement entered into by the cities pursuant to 2010 Iowa Acts, House File 2376. The board shall not approve the petition if the severance and annexation creates an island.

**7.12(6) Denial.** If a petition is denied, the board shall issue an explanation for the denial. A copy of the explanation shall be provided to the clerk of each city involved in the severance and annexation and to any other party of record in the board's proceeding.

**7.12(7) Approval.** If a petition is approved, the board's order approving the severance and annexation is not subject to approval at an election. The board shall file and provide a copy of the order to the clerk of each city involved in the severance and annexation, the recorder of each county that contains a portion of any city or territory affected by the severance and annexation, and any other party of record in the board's proceeding. Upon expiration of the time for appeal, the board shall file with the Iowa secretary of state and record with the recorder of each county that contains a portion of any city or territory involved copies of the proceedings, including the petition, any agreement between the cities, the board's order approving the petition, proof of service and publication of required notices, and any other material deemed by the board to be of primary importance to the proceeding. The board shall file a map and legal description with the Iowa department of transportation.

[ARC 9278B, IAB 12/15/10, effective 1/19/11]

These rules are intended to implement Iowa Code section 368.7.

[Filed 11/20/02, Notice 7/10/02—published 12/11/02, effective 1/15/03]

[Filed ARC 9278B (Notice ARC 9106B, IAB 9/22/10), IAB 12/15/10, effective 1/19/11]



CHAPTER 10  
BOARD PROCEEDINGS ON PETITIONS FOR INVOLUNTARY BOUNDARY  
CHANGE AFTER COMMITTEE APPROVAL

[Prior to 1/9/91, City Development Board[220] Ch 4]

[Prior to 12/11/02, 263—Ch 4]

**263—10.1(368) Election.** If a petition or plan is approved, the board shall submit the proposal at an election held on a date specified in Iowa Code section 39.2, subsection 4, paragraph “a” or “b,” whichever is applicable, and the county commissioner of elections shall conduct the election. The board shall proceed with establishing a date for an election on the proposal regardless of appeal or applications filed pursuant to rule 263—9.13(368). Appeal of a committee decision does not stay the election. After the county commissioner of elections has certified the results to the board, the board shall serve and publish notice of the results as provided in Iowa Code section 362.3.

This rule is intended to implement Iowa Code section 368.19.  
[ARC 9278B, IAB 12/15/10, effective 1/19/11]

**263—10.2(368) Final order.** Documents filed pursuant to Iowa Code section 368.20(2) shall be officially recorded. Upon the final filing of documents as specified in Iowa Code section 368.20(2), the board shall issue an order stating the boundary change is complete. A copy of the order shall accompany the documents and be officially recorded. Copies of the order shall also be served on the county auditor and any city involved in the change.

This rule is intended to implement Iowa Code section 368.20.

**263—10.3(368) Record.** The record of an involuntary boundary adjustment proceeding shall include the following as applicable:

1. The original petition or plan and any amendment;
2. Proofs of service and publication of required public hearing notices;
3. All pleadings filed with the board and committee and any answers or rulings on the pleadings;
4. The public hearing transcript and all evidence received at public hearing;
5. All briefs and documents filed on the board or committee by parties to the proceedings and all other filings made by those not parties but taken note of by the board or committee;
6. Public documents taken note of by the board or committee;
7. The committee’s findings of fact, conclusions of law and determination;
8. The board’s election order;
9. Certification and proof of publication of election results;
10. The board’s final order.

The record shall be opened when a petition for boundary adjustment is filed with the board and shall be closed when the board has issued its final order.

This rule is intended to implement Iowa Code section 17A.19.

**263—10.4(368) Appeal.** A city or a resident or property owner in the territory or city whose urbanized area contains all or part of the territory may appeal a decision of the board or a committee, or the legality of an election, to the district court of a county which contains a portion of any city or territory involved. Appeal must be filed within 30 days of the filing of a decision or the second publication of notice of the result of an election. Appeal of an approval of a petition or plan does not stay the election. When an appeal is filed, the board shall be so notified and provided with a copy of the appeal.

Within 30 days after filing of the petition, the board shall transmit to the reviewing court the original or a certified copy of the entire record of the case which is the subject of the petition. By stipulation of all parties to the review proceedings, the record of such a case may be shortened.

This rule is intended to implement Iowa Code sections 368.22 and 17A.19.

**263—10.5(368) Board supervision of proposal execution.** The board shall proceed accordingly in the following cases:

**10.5(1) *Discontinuance.*** Meaning the termination of a city; the board shall publish two notices as provided in Iowa Code section 368.15 that it will receive and adjudicate claims against a discontinued city for a period of six months from publication of last notice. The board shall take control of all city balances, property, and records during the six-month period. Upon the close of the six-month period, the board shall determine the extent of any unpaid allowed claims and such determination shall be verified by a certified public accountant or by the state auditor. In the case of unpaid allowed claims, the board shall approve payment from the discontinued city's account or shall direct the appropriate governing body to levy the necessary taxes as provided for by section 368.21. After all allowed claims have been paid, any remaining balances in the discontinued city's account shall be deposited in the general fund of the county where the former city was located and all property and records of the discontinued city shall be deposited with the county auditor of the county designated by the board.

**10.5(2) *Boundary adjustment.*** Meaning annexation, severance or consolidation; at the discretion of the board, and upon request of the governing bodies involved, advisory assistance may be provided in implementation of a boundary adjustment.

**10.5(3) *Consolidation.*** Meaning the consolidation of two or more adjoining cities into one city; after the electorates have approved the consolidation, the board may authorize the cities to continue to operate as individual cities until an election of a new city council has been held and the result thereof certified. The election of a new city council shall be held within 90 days of the date of the appeal period authorized by Iowa Code section 368.22.

This rule is intended to implement Iowa Code section 368.21.

[Filed 8/16/73, amended 9/12/73, 11/13/74]

[Filed 10/29/75, Notice 7/14/75—published 11/17/75, effective 12/22/75]

[Filed 7/5/77, Notice 5/18/77—published 7/27/77, effective 8/31/77]

[Filed 2/16/78, Notice 1/11/78—published 3/8/78, effective 4/12/78]

[Filed 12/19/90, Notice 10/17/90—published 1/9/91, effective 2/13/91]

[Filed 11/20/02, Notice 7/10/02—published 12/11/02, effective 1/15/03]

[Filed ARC 9278B (Notice ARC 9106B, IAB 9/22/10), IAB 12/15/10, effective 1/19/11]

**IOWA FINANCE AUTHORITY[265]**

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**265—12.1(16) Qualified allocation plan.** The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2011 Qualified Allocation Plan shall be the qualified allocation plan for the allocation of 2011 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to November 24, 2010.

[ARC 8266B, IAB 11/4/09, effective 12/9/09; ARC 8947B, IAB 7/28/10, effective 7/6/10; ARC 9279B, IAB 12/15/10, effective 1/19/11]

**265—12.2(16) Location of copies of the plan.** The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of November 24, 2010. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site.

[ARC 8266B, IAB 11/4/09, effective 12/9/09; ARC 8947B, IAB 7/28/10, effective 7/6/10; ARC 9279B, IAB 12/15/10, effective 1/19/11]

**265—12.3(16) Compliance manual.** The Low Income Housing Tax Credit Program Compliance Monitoring Manual, dated January 1, 2010, is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

[ARC 7700B, IAB 4/8/09, effective 3/19/09; ARC 7891B, IAB 7/1/09, effective 8/5/09; ARC 8723B, IAB 5/5/10, effective 6/9/10]

**265—12.4(16) Location of copies of the manual.** The compliance manual can be reviewed and copied in its entirety on the authority's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov). Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of October 31, 2009. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

[ARC 7700B, IAB 4/8/09, effective 3/19/09; ARC 7891B, IAB 7/1/09, effective 8/5/09; ARC 8723B, IAB 5/5/10, effective 6/9/10]

These rules are intended to implement Iowa Code section 16.52.

[Filed 6/23/88, Notice 12/30/87—published 7/13/88, effective 8/17/88]

[Filed 3/19/91, Notice 10/17/90—published 4/3/91, effective 5/8/91]

[Filed emergency 10/6/99 after Notice 8/11/99—published 11/3/99, effective 10/6/99]

[Filed emergency 7/14/00 after Notice 5/3/00—published 8/9/00, effective 7/14/00]

[Filed 10/12/00, Notice 8/23/00—published 11/1/00, effective 12/6/00]

[Filed 10/12/01, Notice 6/27/01—published 10/31/01, effective 12/5/01]

[Filed 8/15/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed 8/13/03, Notice 6/25/03—published 9/3/03, effective 10/8/03]

[Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]

[Filed 8/12/05, Notice 6/22/05—published 8/31/05, effective 10/5/05]

[Filed 8/23/06, Notice 7/5/06—published 9/13/06, effective 10/18/06]

[Filed 8/9/07, Notice 7/4/07—published 8/29/07, effective 10/3/07]

[Filed 5/13/08, Notice 3/26/08—published 6/4/08, effective 7/9/08]

[Filed 7/10/08, Notice 6/4/08—published 7/30/08, effective 9/3/08]

[Filed emergency 8/19/08—published 9/10/08, effective 9/3/08]

[Filed emergency 10/14/08—published 11/5/08, effective 10/14/08]

[Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]

[Filed Emergency ARC 7700B, IAB 4/8/09, effective 3/19/09]

[Filed ARC 7891B (Notice ARC 7701B, IAB 4/8/09), IAB 7/1/09, effective 8/5/09]

[Filed ARC 8266B (Notice ARC 8071B, IAB 8/26/09), IAB 11/4/09, effective 12/9/09]

[Filed ARC 8723B (Notice ARC 8508B, IAB 2/10/10), IAB 5/5/10, effective 6/9/10]

[Filed Emergency ARC 8947B, IAB 7/28/10, effective 7/6/10]

[Filed ARC 9279B (Notice ARC 9160B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]

CHAPTER 39  
HOME PARTNERSHIP PROGRAM

**265—39.1(16) Purpose.** The primary purpose of the HOME partnership program is to expand or retain the supply of decent and affordable housing for low- and moderate-income Iowans.

[ARC 8963B, IAB 7/28/10, effective 7/8/10]

**265—39.2(16) Definitions.** When used in this chapter, unless the context otherwise requires:

*“Accessible”* means that the unit meets the construction standards for the rental unit set forth in Chapter 11 of the International Building Code 2009 or, if more stringent, the local building code related to accessibility of rental units.

*“Activity”* means one or more specific housing activities, projects or programs assisted through the HOME partnership program.

*“Administrative plan”* means a document that a HOME recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

*“CHDO”* means a community housing development organization, which is a nonprofit organization registered with the Iowa secretary of state and certified as such by IDEED or IFA, pursuant to 24 CFR 92.2 (April 1, 1997).

*“Consolidated plan”* means the state’s housing and community development planning document and the annual action plan update approved by HUD.

*“Development subsidies”* means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing. In such cases, the total cost of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.

*“Displaced homemaker”* means an individual who (1) is an adult; (2) has not worked full-time/full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

*“Energy Star”* means a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that establishes standards and practices to improve energy efficiency.

*“Energy Star certification”* means a property meets strict guidelines for energy efficiency set by the U.S. Environmental Protection Agency (EPA), making the property 20 to 30 percent more efficient than standard homes. Homes achieve this level of performance through a combination of energy-efficient improvements, including effective insulation systems, high-performance windows, tight construction and ducts, efficient heating and cooling equipment, and Energy Star-qualified lighting and appliances.

*“Energy Star rater”* means a certified inspector who works closely with the builder throughout the construction process to help determine the needed energy-saving equipment and construction techniques and to conduct required on-site diagnostic testing and inspections to document that the home is eligible to earn the Energy Star certification.

*“Extremely low income”* means individuals or families whose annual incomes do not exceed 30 percent of the median income for the area, as determined by HUD.

*“First-time home buyer”* means an individual or an individual and the individual’s spouse who have not owned a home during the three-year period before the purchase of a home with HOME assistance, except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time home buyer on the basis that the individual, while a homemaker, owned a home with the individual’s spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence during the three-year period before purchase of a home with HOME assistance, a dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

*“Gut rehabilitation”* means an activity or project that involves the total removal and replacement of all interior (nonstructural) systems, equipment, components or features of a multifamily structure, whereby the existing structure will be reduced down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). “Gut rehabilitation” may also include structural or nonstructural modifications to the exterior of the structure.

*“HOME”* means the HOME Investment Partnership Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

*“HUD”* means the U.S. Department of Housing and Urban Development.

*“IDED”* means the Iowa department of economic development.

*“IFA”* means the Iowa finance authority.

*“Lead hazard reduction or abatement carrying costs”* means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. “Lead hazard reduction or abatement carrying costs” includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

*“LIHTC”* means low-income housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through IFA for affordable rental housing development.

*“Local financial support”* means financial investment by the recipient through the use of the recipient’s own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the HOME partnership program and that are used during the same time frame as the requested housing activity or project.

*“Local support”* means involvement, endorsement and investment by citizens, organizations and the governing body of the local government in which the housing project is located that promote the objectives of the housing activity or projects assisted through the HOME partnership program.

*“Low income”* means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD.

*“Net proceeds”* means the amount determined by calculating the difference between the resale price and the amount of the outstanding principal loan balance owed plus any seller’s reasonable and customary closing costs associated with the resale.

*“New construction rental units”* means the on-site construction or erection of a building, or buildings, for the purpose of providing rental housing units. New construction rental units include conventional, on-site, stick-built construction and on-site erection or fabrication of manufactured housing units or components of units. New construction rental units also include the addition of any rental units outside the existing walls (the building envelope) of an existing building, or buildings, that are part of a rental rehabilitation, renovation or conversion project.

*“Program income”* means funds generated by a recipient or subrecipient from the use of HOME funds.

*“Reasonable and customary closing costs”* means:

1. Seller’s reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, deed preparation fees, bringing current the seller’s county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.

2. Buyer’s reasonable and customary closing costs incurred include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys’ fees, appraisal fees, and required inspection fees. Ineligible costs under this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, and lender discount points.

*“Recaptured funds”* means HOME funds which are recouped by the recipient when the housing unit assisted by the HOME partnership program home ownership funds does not continue to be the principal residence of the assisted home buyer for the full affordability period required by federal statute.

“*Recipient*” means the entity under contract with IFA to receive HOME funds and undertake the funded housing activity.

“*Repayment*” means HOME funds which the recipient must repay to IFA because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal requirements.

“*Single-family unit*” means one dwelling unit designated or constructed to serve only one household or family as the primary residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined manufactured housing unit and lot.

“*Single parent*” means an individual who (1) is unmarried or is legally separated from a spouse and (2) is pregnant or has one or more minor children for whom the individual has custody or joint custody.

“*Technical services*” means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, (11) value determination (new construction) or after rehabilitation value determination (existing structures), and (12) project-specific environmental clearance processes.

“*Technical services provision*” means the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, (4) after rehabilitation value determination, and (5) project-specific environmental clearance.

“*Very low income*” means families whose annual incomes do not exceed 50 percent of the median income for the area, as determined by HUD.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11]

**265—39.3(16) Eligible applicants.** Eligible applicants for HOME assistance include all incorporated cities and all counties within the state of Iowa, nonprofit 501(c) organizations, CHDOs, and for-profit corporations or partnerships.

**39.3(1)** Any eligible applicant may apply directly to IFA.

**39.3(2)** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

[ARC 9284B, IAB 12/15/10, effective 1/19/11]

**265—39.4(16) Eligible activities and forms of assistance.**

**39.4(1)** Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance (including development subsidies), and other housing-related activities as may be deemed appropriate by IFA. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

*a.* Assisted units shall be affordable.

(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or a rent that does not exceed 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the assisted units shall rent at the lesser of the fair market rent or a rent that does not exceed 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly constructed units; 15 years for rehabilitated units receiving over \$40,000 per unit in assistance; 10 years for rehabilitated units receiving \$15,000 to \$40,000 per unit in assistance; and 5 years for projects receiving less than \$15,000 per unit.

(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction’s applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.

(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price

as established by HUD mortgage limits for the same type of single-family housing in the area. Assisted units shall remain affordable through recapture or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.

*b.* Assisted households shall meet income limits established by federal program requirements.

(1) For rental activities for projects with 35 units or fewer, all assisted units shall be rented to low-income households; at initial occupancy, 90 percent of the units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with 5 or more units, 20 percent of the units shall be rented initially to very low-income households.

(2) For rental activities for projects with 36 units or more, all assisted units shall be rented to low-income households; at initial occupancy and throughout the HOME compliance period, 5 percent of all of the units, assisted or not assisted, in the project shall be rented to extremely low-income households, and the household shall not pay more than the rent established by HUD for extremely low-income households. At initial occupancy, the remainder of the HOME assisted units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with 5 or more units, 20 percent of the units shall be rented initially to very low-income households.

(3) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area's median family income.

(4) For home ownership assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted.

*c.* Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.

(1) All rental housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.

(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa's Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).

*d.* Energy Star. All new construction must obtain Energy Star certification verified by an Energy Star rater.

**39.4(2)** Eligible forms of IFA assistance to its recipients include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IFA.

**39.4(3)** For all single-family housing projects or activities assisting homeowners or home buyers, the only form of HOME funds assistance to the end beneficiary is a forgivable loan.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11]

### **265—39.5(16) Application procedure.**

**39.5(1)** HOME applications shall be reviewed at least annually. IFA reserves the right to withhold funding from the annual HOME competitive cycle to compensate for insufficient number or quality of applications received, to ensure IFA meets its 15 percent CHDO set-aside from HOME funds, to add HOME funds to existing HOME awards within one year of the original award date, to reallocate deobligated or recaptured funds, and to fund projects that are consistent with the Rural Development Section 515 Preservation Demonstration Program. In the event that funds are withheld from the annual competitive cycle, IFA will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IFA.

**39.5(2)** Joint applications. For applicants requesting funding from both the HOME partnership and low-income housing tax credit (LIHTC) programs, the applicant may request application forms and

related materials from the LIHTC program at IFA. IFA will make a joint tax credit and HOME application available to a potential applicant. The applicant must submit to IFA the completed application with required HOME attachments by the deadline established in the application package. An applicant shall meet the requirements of the LIHTC and the HOME program to receive an award of HOME funds.

*a.* IFA shall appoint a joint review team to discuss and review applications for HOME and LIHTC funds and any other funding sources. Staff for each program may communicate frequently regarding common projects. Information contained in the joint application will be shared with each program.

*b.* HOME staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final award decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan (scoring and set-asides) and the HOME application requirements. Staff for each program will make recommendations for funding to the IFA board of directors. A decision by one program does not bind the other program to fund a project.

*c.* An applicant for the HOME partnership program must meet the threshold requirements outlined in rule 265—39.6(16).

[ARC 9284B, IAB 12/15/10, effective 1/19/11]

**265—39.6(16) Application requirements.** To be considered for HOME assistance, an application shall meet the following threshold criteria.

**39.6(1)** The application shall propose a housing activity consistent with the HOME fund purpose and eligibility requirements and the state consolidated plan.

**39.6(2)** The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IFA reserves the right to deny funding to an applicant that has failed to comply with federal or state requirements in the administration of a previous project funded by the state of Iowa or that failed to comply with federal requirements in the administration of a previous project funded in any other state. Documentation of the ability of the applicant to provide technical services and the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the HOME fund activity.

**39.6(3)** The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, the feasibility of the proposed activity, and the impact of additional housing resources on the existing related housing market.

**39.6(4)** The application shall demonstrate local support for the proposed activity.

**39.6(5)** The application shall show that a need for HOME assistance exists after all other financial resources have been identified and secured for the proposed activity.

**39.6(6)** The application shall include a certification that the applicant will comply with all applicable state and federal laws and regulations.

**39.6(7)** Local participating jurisdiction requirement. An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IFA HOME funds requested. Sources of local PJ financial commitment may include one or more of the following: HOME, community development block grant, tax increment financing, tax abatement, or general funds; the value of waived taxes, fees or charges associated with HOME projects; the value of donated land or real property; the cost of infrastructure improvements associated with HOME projects; and the contracted commitment to provide the direct costs of supportive services to residents of HOME projects provided by a city-owned agency using nonfederal funds.

**39.6(8)** An application for home ownership assistance activity must indicate that recipients will require the beneficiaries of the applicant's home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

*a.* With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual home ownership assistance projects.

*b.* The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME fund home ownership assistance activities must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other form of assistance, such as home equity loans. A homebuyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.

*c.* Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:

- (1) The loan must be a fully amortizing, fixed-rate loan with rate not to exceed Fannie Mae 90-day yield + 0.125% or VA-published interest rate at par;
- (2) Loan terms must include an 80 percent or higher loan-to-value ratio;
- (3) No less than a 15-year, fully amortized, fixed-rate mortgage shall be used; and
- (4) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.

*d.* Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa finance authority, USDA Rural Development, Federal Home Loan Bank, HUD (including FHA and VA), Habitat for Humanity, Fannie Mae, or Freddie Mac.

**39.6(9)** An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time homebuyers only and that the assisted unit will remain as the assisted homebuyer's principal residence throughout the required period of affordability.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11]

#### **265—39.7(16) Application review criteria.**

**39.7(1)** IFA shall evaluate applications and make funding decisions based on general activity criteria, need, impact, feasibility, and activity administration based upon the specific type of activity to be undertaken. The activity criteria shall be a part of the application. Training will be offered prior to the application deadline to provide information and technical assistance to potential applicants.

**39.7(2)** A request for proposals shall be published by IFA when funds are available to award. The request for proposals shall specify the general criteria, need, impact and feasibility criteria, and the administrative criteria based on the activity proposed. Notice of the availability of funding will be placed on IFA's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

**39.7(3)** Special consideration will be given to applications where 100 percent of the HOME-funded rental units are fully accessible (not adaptable).

[ARC 9284B, IAB 12/15/10, effective 1/19/11]

#### **265—39.8(16) Allocation of funds.**

**39.8(1)** IFA may retain a portion of the amount up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

**39.8(2)** Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

**39.8(3)** IFA reserves the right to set aside a portion of the state's annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits and for the Rural Development Section 515 Preservation Demonstration Program.

**39.8(4)** Reserved.

**39.8(5)** IFA reserves the right to limit the amount of funds that shall be awarded for any single activity type.

**39.8(6)** Awards shall be limited to no more than \$500,000 for all single-family activities assisting homeowners or home buyers. Awards shall be limited to no more than \$900,000 for all multifamily rental activities.

**39.8(7)** Single-family per unit subsidies.

*a.* The maximum per unit subsidy for all single-family activities involving rehabilitation is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; home ownership assistance activities;

technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with HOME funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to \$4,500 per unit.

*b.* Assistance for single-family activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

*c.* Assistance for single-family activities providing development subsidies for newly constructed housing is limited to \$20,000 per unit. Development subsidies may be provided in addition to acquisition assistance activities.

**39.8(8)** Multifamily per unit subsidies. The maximum per unit HOME funds subsidy for all multifamily activities is \$60,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$60,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

**39.8(9)** Recipients shall identify general administrative costs in the HOME funds application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME funds award. Only local government and nonprofit recipients are eligible for general administrative funds.

**39.8(10)** IFA reserves the right to negotiate the amount and terms of a HOME funds award.

**39.8(11)** IFA reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11]

**265—39.9(16) Administration of awards.** Applicants selected to receive HOME funds awards shall be notified by letter from the IFA executive director or IFA affordable rental production division director.

**39.9(1) Preaudit survey.** A preaudit survey may be required for all for-profit and nonprofit direct recipients for assistance that exceeds \$150,000.

**39.9(2) Contract.** A contract shall be executed between the recipient and IFA. These rules, the approved application, the IFA HOME Management Guide and all applicable federal and state laws and regulations shall be part of the contract.

*a.* The recipient shall execute and return the contract to IFA within 45 days of transmittal of the final contract from IFA. Failure to do so may be cause for IFA to terminate the award.

*b.* Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Contracts may be conditioned upon the timely completion of these requirements.

*c.* Awards shall be conditioned upon commitment of other sources of funds necessary to complete the housing activity.

*d.* Rescinded IAB 12/15/10, effective 1/19/11.

*e.* Release of funds shall be conditioned upon IFA's receipt and approval of documentation of environmental clearance.

**39.9(3) Local administrative and technical services contracts.**

*a.* Recipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed.

*b.* Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed.

c. Recipients that employ a third party to perform all or part of the general administration for the recipient and that also employ a third party to perform all or part of the technical services for the recipient shall conduct separate procurement transactions and shall enter into separate contractual agreements for each: one contract for general administration and one contract for technical services. Separate contracts are required even if both functions are performed by the same third-party entity.

**39.9(4) Requests for funds.** Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds. Adequate and itemized documentation supporting the amount of funds requested must be provided prior to release of funds.

**39.9(5) Record keeping and retention.**

a. HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in the following:

(1) For rental housing projects, records may be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates;

(2) For home ownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates;

(3) For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates;

(4) Written agreements must be retained for five years after the agreement terminates;

(5) For records covering displacements and acquisitions, see 24 CFR 92.508;

(6) For records relating to litigation, see 24 CFR 92.508.

b. Representatives of IFA, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a HOME funds award; to the total project receipts and expenditures related to new construction, acquisition, or rehabilitation; and to any records maintained by third-party administrators for general administration or technical services for the HOME-funded project.

**39.9(6) Performance reports and reviews.** Recipients shall submit performance reports to IFA in the manner and on forms prescribed by IFA. Reports shall assess the use of funds and progress of activities. IFA may perform reviews or field inspections necessary to ensure recipient performance.

**39.9(7) Amendments to contracts.** Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the CEO of the recipient and are not considered valid until approved in writing by IFA following the procedure specified in the contract between the recipient and IFA.

**39.9(8) Contract closeout.** Upon the contract expiration date or work completion date, as applicable, and IFA's receipt of final draw and completion documentation, IFA shall initiate closeout procedures. Recipients shall comply with applicable audit requirements, quarterly performance reports and Section 3 requirements and provide other required documents described in the HOME funds application, the contract, the IFA HOME Management Guide, and IFA HOME partnership program policies and procedures.

**39.9(9) Compliance with federal, state and local laws and regulations.** Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

**39.9(10) Remedies for noncompliance.** At any time, IFA may, for cause, find that a recipient is not in compliance with the requirements of this program. At IFA's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IFA. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with

applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

**39.9(11)** *Appeals process for findings of noncompliance.* Appeals will be entertained in instances where it is alleged that IFA staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IFA. Appeals should be addressed to the director of the affordable rental production division. Appeals shall be in writing and submitted to IFA within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. IFA's executive director will make the final decision on all appeals.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11]

These rules are intended to implement Iowa Code sections 16.5(1)“f” and 16.5(1)“m” and the Cranston-Gonzalez National Affordable Housing Act of 1990.

[Filed Emergency ARC 8963B, IAB 7/28/10, effective 7/8/10]

[Filed ARC 9284B (Notice ARC 9159B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]



CHAPTER 40  
IOWANS HELPING IOWANS HOUSING ASSISTANCE PROGRAM

**265—40.1(16) Purpose.** This chapter defines and structures the Iowans helping Iowans housing assistance program to aid individuals whose homes, located in parts of Iowa declared by the President of the United States to be disaster areas eligible for individual assistance, were destroyed or damaged by the natural disasters of 2010. Under the program, the authority may grant funds in accordance with this chapter to local government participants, including certain Iowa councils of governments, cities, and counties. The local government participants shall, in turn, loan funds to eligible residents under the conditions specified in this chapter to assist those eligible residents in purchasing homes generally comparable to those they lived in prior to the occurrence of the natural disasters of 2010 and in repairing or rehabilitating disaster-affected homes.

[ARC 9077B, IAB 9/8/10, effective 8/20/10; ARC 9280B, IAB 12/15/10, effective 1/19/11]

**265—40.2(16) Definitions.** For purposes of this chapter, the following definitions apply.

“*Authority*” means the Iowa finance authority.

“*COG*” means an Iowa council of governments as identified by Iowa Code chapter 28H.

“*Disaster-affected home*” means a primary residence that was destroyed or damaged by the natural disasters of 2010.

“*Disaster compensation*” means moneys received by an eligible resident as a result of damage caused to the eligible resident’s disaster-affected home by the natural disasters of 2010 from any of the following sources: (1) FEMA, (2) any other governmental assistance, or (3) proceeds of any insurance policy. “Disaster compensation” shall not include rental assistance received from FEMA or other sources.

“*Eligible repair expenses*” means the reasonable cost of repairing damage to a disaster-affected home necessitated by the natural disasters of 2010. “Eligible repair expenses” shall not include additions to or expansions of a disaster-affected home or the purchase or installation of luxury items that were not part of the disaster-affected home prior to the natural disasters of 2010.

“*Eligible resident*” means an individual or family who resided in a disaster-affected home that was a primary, owner-occupied residence at the time of the natural disasters of 2010 and who:

1. Is the owner of record of a right, title or interest in the disaster-affected home; and
2. Has been approved by FEMA for housing assistance as a result of the natural disasters of 2010.

In cases where multiple persons own a disaster-affected home together, such as by a tenancy in common or joint tenancy, such persons will generally be deemed collectively to be the “eligible resident,” provided the requirements set forth in paragraphs “1” and “2” above are met. In the event that multiple persons assert inconsistent ownership claims of a disaster-affected home, the local government participant shall review the facts and, if necessary, make an allocation among the various applicants.

“*FEMA*” means the Federal Emergency Management Agency.

“*Forgivable loan*” means a loan made to an eligible resident pursuant to the requirements of this chapter.

“*Local government participant*” means:

1. Any of the following Iowa cities: Ames, Des Moines, and Waterloo;
2. Any COG whose territory encompasses one or more Iowa counties that have been declared by the President of the United States to be disaster areas as a result of the natural disasters of 2010; and
3. Any county that is not part of any Iowa council of governments and has been declared by the President of the United States to be a disaster area as a result of the natural disasters of 2010.

“*Natural disasters of 2010*” means the severe storms, tornadoes, and flooding that occurred in Iowa beginning June 1, 2010, and designated by FEMA as FEMA-1930-DR.

“*Program*” means the Iowans helping Iowans housing assistance program described in this chapter.

“*Retention agreement*” means an agreement, to be recorded as a lien against the property for which assistance is provided, requiring that if an eligible resident sells a home that was purchased or repaired

with the assistance of a loan made under this chapter, then that portion of the original principal amount that has not been forgiven, if any, shall be repaid.

[ARC 9077B, IAB 9/8/10, effective 8/20/10; ARC 9280B, IAB 12/15/10, effective 1/19/11]

#### **265—40.3(16) Grants to local government participants.**

##### **40.3(1) Allocation; grant agreement.**

*a. Initial allocation.* The authority shall make an initial allocation of the funds made available for the program to the local government participants pro rata based on the funds awarded by FEMA under its housing assistance program, preliminary damage assessments completed by the Iowa homeland security and emergency management division, or other factors as may be determined reasonable by the authority to each local government participant's jurisdiction as a percentage of the total amount of funds awarded as a result of the natural disasters of 2010.

*b. Grant agreement.* The authority shall enter into a grant agreement with each local government participant, pursuant to which the authority may disburse funds to the local government participant for the purposes described in this chapter. The grant agreement shall be prepared by the authority and may contain such terms and conditions, in addition to those specified in this chapter, as the executive director may deem to be necessary and convenient to the administration of the program and to the efficient and responsible use of the granted funds.

**40.3(2) Review of requests for assistance.** The local government participant shall accept and review each request for assistance and shall determine whether the requesting party is an eligible resident. If the requesting party is determined to be an eligible resident, the local government participant shall determine whether the funds are being requested for a use permitted under the program and the amount available to the eligible resident under the terms of the program.

**40.3(3) Coordination with the Iowans helping Iowans business assistance program.** For presidentially declared disaster areas outside a COG region, counties may elect to apply singly, join with other counties, or join with an adjacent COG region. Likewise, a city named in the definition of "local government participant" in rule 265—40.2(16) may join with a COG, county, or multicounty entity. To the extent local government participants act jointly or cooperatively in their participation in the small business disaster recovery financial assistance program administered by the Iowa department of economic development pursuant to 261—Chapter 78, Iowa Administrative Code, the authority may require the local government participants to similarly act jointly or cooperatively in their participation under this chapter.

**40.3(4) Reallocation of unused funds.** Following one year, or following any three-month period during which a local government participant has requested no draws, the authority may reallocate all or part of any remaining portion of funds initially allocated to that local government participant to another local government participant with a demonstrated need for program funds.

**40.3(5) Administrative fees.** Each local government participant shall be entitled to receive an administrative fee equal to 5 percent of the funds it loans via the program, plus reasonable inspection fees as may be allowed in the grant agreement.

**40.3(6) Proceeds of repayments.** All loan amounts repaid to a local government participant by an eligible resident pursuant to this chapter shall be returned to the authority's housing assistance fund created by Iowa Code section 16.40.

[ARC 9077B, IAB 9/8/10, effective 8/20/10; ARC 9280B, IAB 12/15/10, effective 1/19/11]

#### **265—40.4 Reserved.**

#### **265—40.5(16) Eligible uses.**

**40.5(1) Forgivable loans.** Local government participants may make forgivable loans, pursuant to the conditions set forth in rule 265—40.7(16), to eligible residents for the following eligible uses:

*a. Down payment assistance.* An eligible resident whose disaster-affected home was destroyed or damaged beyond reasonable repair may be provided down payment assistance for the purchase of replacement housing located within the local government participant's jurisdiction, but outside the 100-year flood plain, and, if necessary, for the cost of making reasonable repairs to the home being

purchased to make it safe, decent, and habitable. The amount of down payment assistance available to an eligible resident (including any amount allowed for making reasonable repairs to the home being purchased) shall not exceed 25 percent of the purchase price of the home being purchased and, in no event, shall the down payment assistance and any amount allowed for repairs collectively exceed \$25,000.

(1) For purposes of calculating the amount of down payment assistance available to the eligible resident, the amount of the down payment assistance shall be reduced by the amount of any disaster compensation received by the eligible resident in excess of any amount necessary to pay off a mortgage or real estate purchase contract on the disaster-affected home.

(2) As a condition of receiving down payment assistance, the eligible resident shall agree that any disaster compensation received subsequent to the closing of the forgivable loan, if not applied toward repayment of a mortgage on the disaster-affected home, shall be used by the eligible resident to pay down the balance of the forgivable loan outstanding at the time the eligible resident receives such disaster compensation.

(3) Down payment assistance shall be allowed only for the purchase of a primary residence by means of a fully amortized mortgage loan from a regulated lender featuring a rate of interest that is fixed for at least 5 years and that has a term not to exceed 30 years.

(4) Eligible residents who receive down payment assistance under paragraph 40.5(1) "a" may not receive the assistance available under paragraph 40.5(1) "b."

(5) An eligible resident shall not use the assistance allowed under 40.5(1) "a" for the purchase of more than one home.

*b. Housing repair or rehabilitation.* An eligible resident whose disaster-affected home is not proposed, or located in an area proposed, by a municipality or county to the Iowa homeland security and emergency management division for property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2010) may receive financial assistance to pay for eligible repair expenses up to an amount not to exceed \$25,000 if the local government participant determines that the repair or rehabilitation of the home is feasible. The local government participant may establish eligibility criteria for housing repair or rehabilitation assistance for disaster-affected homes located in the 100-year flood plain, including but not limited to exclusion of such properties based upon local flood plain management requirements. The eligible resident shall establish the necessity and reasonable cost of the repairs or rehabilitation to the reasonable satisfaction of the local government participant.

(1) For purposes of calculating the amount of assistance available to the eligible resident pursuant to this paragraph, the cost of repairs to, or rehabilitation of, the disaster-affected home shall be reduced by the amount of any disaster compensation received.

(2) As a condition of receiving assistance pursuant to this paragraph, the eligible resident shall agree that any disaster compensation received subsequent to the closing of the forgivable loan shall be used by the eligible resident to pay down the balance of the forgivable loan outstanding at the time the eligible resident receives such disaster compensation.

(3) An eligible resident who receives assistance pursuant to this paragraph shall not be eligible for assistance under paragraph 40.5(1) "a."

*c. General conditions of assistance.* Any home to be purchased, repaired or rehabilitated using assistance under the program must be in compliance with all applicable state and local rules and ordinances, including, but not limited to, those relating to building codes, zoning, flood plain ordinances, lead-safe renovators and work practices, and asbestos inspection and removal. To be eligible for assistance, the home must be in compliance as of the time of closing, in the case of purchases, and as of the date of the final disbursement of forgivable loan proceeds, in the case of repair or rehabilitation.

**40.5(2) and 40.5(3) Reserved.**

**40.5(4) Expenses incurred prior to August 20, 2010.** In the event an eligible resident purchased a home or made or caused to be made repairs to a disaster-affected home located within the jurisdiction of a local government participant prior to August 20, 2010 (the effective date of this chapter), the eligible

resident shall be eligible for reimbursement therefor under this chapter as though the purchase, repairs, or payments had taken place subsequent to such date.

**40.5(5) Applications for assistance.** To apply for down payment assistance or assistance for repair or rehabilitation of a disaster-affected home, the eligible resident shall apply to the local government participant in whose jurisdiction the disaster-affected home is located.

[ARC 9077B, IAB 9/8/10, effective 8/20/10; ARC 9280B, IAB 12/15/10, effective 1/19/11]

**265—40.6(16) Loan terms.** Loans made under the program shall, at a minimum, contain the following terms:

**40.6(1) Forgivability.** Forgivable loans made pursuant to the program shall be forgivable over a five-year period. One-fifth of the total principal amount loaned shall be forgiven following each full year the eligible resident owns the home for which the loan was made, beginning on the date of the final disbursement of forgivable loan proceeds.

**40.6(2) Zero percent interest.** Loans made pursuant to the program shall bear no interest.

**40.6(3) Five-year term.** All loans made pursuant to the program shall be for a term of five years.

**40.6(4) Repayment due upon sale of home.** Any principal of a forgivable loan that has not yet been forgiven at the time the home for which the forgivable loan was made is sold by the eligible resident (including property acquisitions) shall be due and payable upon such sale.

**40.6(5) Retention agreement.** Each loan made pursuant to this program shall be secured by a retention agreement which shall constitute a lien on the title of the real property for which the forgivable loan is made until such time as the forgivable loan has either been fully forgiven or paid in full; provided, however, that in the case of a property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2010), payment of the following shall be waived:

*a.* That portion of the repayment due for a down payment assistance loan made under paragraph 40.5(1) “a”; and

*b.* That portion of the repayment due for a housing repair or rehabilitation assistance loan made under paragraph 40.5(1) “b” for which the eligible resident provides documentation that the assistance was expended for the purpose for which it was awarded.

[ARC 9077B, IAB 9/8/10, effective 8/20/10; ARC 9280B, IAB 12/15/10, effective 1/19/11]

**265—40.7(16) Financial assistance subject to availability of funding.** All financial assistance authorized pursuant to this chapter shall be subject to funds being made available to the authority for the purposes set forth herein.

[ARC 9077B, IAB 9/8/10, effective 8/20/10; ARC 9280B, IAB 12/15/10, effective 1/19/11]

These rules are intended to implement Iowa Code sections 16.5(1) “r” and 16.40.

[Filed Emergency ARC 9077B, IAB 9/8/10, effective 8/20/10]

[Filed ARC 9280B (Notice ARC 9078B, IAB 9/8/10), IAB 12/15/10, effective 1/19/11]

CHAPTER 41  
SHELTER ASSISTANCE FUND  
[Prior to 10/20/10, see 261—Ch 29]

**265—41.1(16) Purpose.** The shelter assistance fund is created for the purpose of providing financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.2(16) Definitions.** When used in this chapter, unless the context otherwise requires:

“*Applicant*” means an eligible provider of eligible homeless services which is applying for SAF program funds.

“*Domestic violence shelter*” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“*Emergency shelter*” means a homeless shelter with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for homeless persons.

“*ESG program*” or “*ESGP*” means the Emergency Shelter Grants Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“*HMIS*” means the Homeless Management Information System, which is a client-level data collection and management system implemented at the community level that allows for better coordination among agencies providing services to clients.

“*Homeless*” or “*homeless individual*” shall have the meaning set forth in 42 U.S.C. Section 11302.

“*Homeless prevention*” means activities or programs designed to prevent the incidence of homelessness.

“*Homeless shelter*” means a facility providing temporary housing and services for homeless persons.

“*HUD*” means the U.S. Department of Housing and Urban Development.

“*HUD ESG Desk Guide*” means the document provided by HUD which supplements the federal regulations pertaining to the Emergency Shelter Grants Program.

“*IFA*” means the Iowa finance authority.

“*Major rehabilitation*” means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

“*Obligated*” means that IFA has placed orders, awarded contracts, received services, or entered into similar transactions that require payment from the shelter assistance fund. Funds awarded by IFA by a written agreement or letter of award requiring payment from the shelter assistance fund are obligated.

“*Operations*” means administration, maintenance, repair, security, provision of essential services, and provision of homelessness prevention activities.

“*Private, nonprofit organization*” means a secular or religious organization described in Section 501(c) of the Internal Revenue Code which:

1. Is exempt from taxation under Subtitle A of the Internal Revenue Code,
2. Has an accounting system and a voluntary board,
3. Practices nondiscrimination in the provision of services to clients, and
4. Has registered with the state of Iowa as a nonprofit corporation.

“*Recipient*” means any private, nonprofit organization or city or county government to which IFA distributes shelter assistance fund program funds.

“*Rehabilitation*” means repair directed toward an accumulation of deferred maintenance; replacement of principal fixtures and components of existing buildings; installation of security devices; and improvement through alterations or additions to, or enhancements of, existing buildings, including improvements to increase the efficient use of energy in buildings. Costs of rehabilitation may include labor, materials, tools, and other costs of improving buildings.

“*Renovation*” means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

“*SAF*” means shelter assistance fund created in 2010 Iowa Acts, Senate File 2088, section 265.

“*Subrecipient*” means any private, nonprofit organization or city or county government to which a recipient distributes shelter assistance fund program funds.

“*Transitional housing*” means a project that is designed to provide housing and appropriate support services to homeless persons to facilitate movement to independent living within a specified time frame.

“*Value of the building*” means the monetary value assigned to a building by an independent real estate appraiser or as otherwise reasonably established by the recipient or subrecipient.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.3(16) Eligible applicants.** City governments, county governments, and private, nonprofit organizations are eligible applicants under the SAF program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter, meals, clothing, transportation, counseling, child care, legal services, medical services, transitional housing services, and other related services for homeless individuals and families.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.4(16) Eligible activities.** Activities assisted by the SAF may include the following:

1. Rehabilitation, renovation, or expansion of buildings for use in the provision of services for the homeless.

2. Provision of normal operating expenses for programs providing services to homeless individuals or families, including staff salaries, maintenance, insurance, utilities, furnishings, provision of essential services, provision of homeless prevention activities, administrative activities, and all other documented normal operating expenses.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.5(16) Ineligible activities.** As a general rule, any activity that is not authorized under the provisions of P.L. 100-628 is ineligible to be carried out with SAF program funds. The following are items specifically listed as ineligible in 24 CFR Part 576.

1. Acquisition or new construction of an emergency shelter for the homeless;
2. Rehabilitation administration, such as preparation of work specifications, loan processing, or inspections;

3. Renovation, rehabilitation, or conversion of buildings owned by primarily religious organizations or entities unless the activity complies with all requirements as outlined in 24 CFR Part 576.23(a) and (b).

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.6(16) Application procedures.** IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD for the ESG program. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on forms prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match for the ESG program, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.7(16) Application review process.** The application review process will be a joint process that combines the SAF program with the ESG program. The following procedures will be used in the review of applications for most purposes. IFA reserves the right to select an alternate application review process for SAF program funds only.

**41.7(1) Review; threshold criteria; eligible activities.**

*a. Review of applications.* Applications will be reviewed by a panel appointed by IFA. Applications will be reviewed based on priorities established during each competition round, in accordance with the state of Iowa consolidated plan for housing and community development. Applicant experience and capacity, as well as past performance, are top priorities. Other review criteria include,

but are not limited to, program design, community need, program accessibility, program partnerships, the number of persons or households served, and how well the program leverages other resources.

*b. Threshold criteria.* IFA will identify threshold criteria that all programs must meet in order to be eligible.

*c. Activities eligible during funding cycle.* Each competition round will specify which of the total eligible program activities will be supported during that competition round.

**41.7(2)** If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application or referred to another funding source or the application may be disqualified.

**41.7(3)** IFA reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application.

**41.7(4)** IFA staff may review applications with other state agencies or other groups with expertise in the area of serving homeless persons before making final funding recommendations. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

**41.7(5)** Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

**41.7(6)** IFA reserves the right to negotiate all aspects of a funding request prior to final approval.

**41.7(7)** IFA shall establish the period of funding for each competition.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.8(16) Matching requirement.** Subrecipients are not required to provide a match for SAF program funds.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.9(16) Funding awards.**

**41.9(1) Awards on behalf of multiple applicants.** A city or county government or nonprofit organization may be designated, at the discretion of IFA, to administer contracts for multiple applicants within a prescribed geographic area.

**41.9(2) Right to negotiate.** IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.

**41.9(3) Special purpose awards.** IFA may, at its discretion, award any remaining funds as it sees fit within the SAF program regulations.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.10(16) Restrictions placed on recipients and subrecipients.**

**41.10(1) Use as provider of homeless services.** Any building for which SAF program funds are used must be maintained as a provider of homeless services for not less than a three-year period or for not less than a ten-year period if the funding amounts are used for major rehabilitation or conversion of the building. If SAF program funds are used for operating and maintenance costs, the recipient must continue to provide homeless services for at least one year. In calculating the applicable time period, the beginning dates of the three- and ten-year periods are determined as follows:

*a.* In the case of a building that was not operated as a provider of services for the homeless before receipt of SAF program funds, on the date of initial occupancy as a provider of services to the homeless.

*b.* In the case of a building that was operated as a provider of services to the homeless before the receipt of SAF program funds, on the date that those funds are first obligated to the homeless service provider.

**41.10(2) Building standards.** Any building for which SAF program funds are used for renovation, conversion, rehabilitation, or major rehabilitation must comply with all state and local building codes and ordinances and any other applicable legal requirements.

**41.10(3) Participation by homeless individuals and families.**

*a.* SAF program recipients and subrecipients must certify that homeless individuals and families are involved, through employment, volunteer services, or otherwise, in constructing, renovating, maintaining, and operating assisted facilities and in providing services.

*b.* Subrecipients must have the participation of at least one homeless person or formerly homeless person on their board of directors or equivalent policymaking entity. The Secretary of HUD may issue a waiver to the subrecipient if the subrecipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.

**41.10(4) Termination of assistance and grievance procedure.** Subrecipients must establish and implement a formal process to terminate assistance to individuals or families who violate program requirements. This process must include a hearing that provides individuals a full opportunity to address issues of noncompliance.

**41.10(5) Data reporting system.** Subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract.

**41.10(6) Ensuring confidentiality.** Subrecipients must develop and implement procedures to guarantee the confidentiality of records pertaining to any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any family violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.11(16) Compliance with applicable federal and state laws and regulations.** All recipients and subrecipients must comply with the Iowa Code governing activities performed under this program. Use of SAF program funds must comply with the following additional requirements.

**41.11(1) Nondiscrimination and equal opportunity.** All recipients and subrecipients must comply with the following:

*a.* The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107 (June 1, 1999); and Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2002d) and implementing regulations at 24 CFR Part 1 (June 1, 1999).

*b.* Affirmative action requirements as implemented with Executive Orders 11625, 12432, and 12138 which require that every effort be made to solicit the participation of minority and women business enterprises (MBE/WBE) in governmental projects.

*c.* The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07).

*d.* The prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

**41.11(2) Auditing.** All recipients and subrecipients must comply with auditing requirements as outlined in the Single Audit Act of 1996 and the implementing regulations found in OMB Circular A-133.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

**265—41.12(16) Administration.**

**41.12(1) Contracts.** Upon selection of an application for funding, IFA will either initiate a contract or authorize a recipient to initiate a contract on IFA's behalf. If a local city or county government or a nonprofit organization is designated as the recipient, the subrecipients shall remain responsible for adherence to the requirements of the SAF program rules. These rules and applicable federal and state laws and regulations become part of the contract. Certain activities may require that permits or clearances be obtained from other state agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements.

**41.12(2) Record keeping and retention.** Financial records, supporting documents, statistical records, and all other records pertinent to the funded program shall be retained by the recipient and the subrecipient. Private, nonprofit subrecipients covered through an SAF program contract from a local city or county government or nonprofit organization are responsible for ensuring that pertinent records of their SAF program funds be made available to the administering city or county or nonprofit organization and to IFA upon request. Proper record retention must be in accordance with the following:

*a.* Records for any assisted activity shall be retained for three years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

*b.* Representatives of the state auditor's office and IFA shall have access to all books, accounts, documents, records, and other property belonging to or in use by a recipient or a subrecipient pertaining to the receipt of assistance under these rules.

**41.12(3) Reporting requirements.** Recipients and subrecipients shall submit reports to IFA as prescribed in the contract. Reports include:

*a.* HMIS data reports. All recipients and subrecipients of SAF program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA; provided, however, that a recipient or subrecipient that qualifies as a domestic violence shelter shall not be required to report personally identifiable information about its homeless domestic violence clients. "Personally identifiable information" shall include any information that the reporting domestic violence shelter reasonably determines could be used to identify a particular client.

*b.* Requests for funds. Recipients and subrecipients must submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient and subrecipient records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 41.12(5).

**41.12(4) Amendments to contracts.** Contracts may be amended on an individual basis in emergency situations. Any request to amend a contract must be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

**41.12(5) Remedies for noncompliance.** At any time, IFA may, for cause, find that a recipient or subrecipient is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the recipient's or subrecipient's use of program funds for activities not described in its application, the recipient's or subrecipient's failure to complete approved activities in a timely manner, the recipient's or subrecipient's failure to comply with any applicable state or federal rules or regulations, or the recipient's or subrecipient's lack of continuing capacity to carry out the approved program in a timely manner. At its discretion, IFA may employ any of the following remedies for noncompliance:

*a.* Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.

*b.* Condition a future award.

*c.* Direct the recipient or subrecipient to stop incurring costs with grant funds.

*d.* Require that some or all of the awarded funds be remitted to the state.

*e.* Reduce the level of funds the recipient or subrecipient would otherwise be entitled to receive.

*f.* Elect not to provide future award funds to the recipient or subrecipient until appropriate actions are taken to ensure compliance.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

These rules are intended to implement Iowa Code section 16.5(1) "r" and 2010 Iowa Acts, Senate File 2088, division XXII.

[Filed Emergency ARC 9162B, IAB 10/20/10, effective 10/1/10]

[Filed ARC 9281B (Notice ARC 9163B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]



CHAPTER 42  
EMERGENCY SHELTER GRANTS PROGRAM

[Prior to 10/20/10, see 261—Ch 24]

**265—42.1(16) Purpose.** The emergency shelter grants program is designed to improve the quality of services to the homeless and to prevent individuals and families from becoming homeless. The program will make available needed services and help meet the costs of providing essential social services so that homeless individuals and families have access not only to safe and sanitary shelter but also to the supportive services and other types of assistance the individuals and families need to improve their situations.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.2(16) Definitions.** When used in this chapter, unless the context otherwise requires:

“*Applicant*” means an eligible provider of eligible homeless services which is applying for funds through the ESG program.

“*Domestic violence shelter*” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“*Emergency shelter*” means a homeless shelter with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for homeless persons.

“*ESG program*” or “*ESGP*” means the Emergency Shelter Grants Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“*HMIS*” means the Homeless Management Information System, which is a client-level data collection and management system implemented at the community level that allows for better coordination among agencies providing services to clients.

“*Homeless*” or “*homeless individual*” shall have the meaning set forth in 42 U.S.C. Section 11302.

“*Homeless prevention*” means activities or programs designed to prevent the incidence of homelessness.

“*Homeless shelter*” means a facility providing temporary housing and services for homeless persons.

“*HUD*” means the U.S. Department of Housing and Urban Development.

“*HUD ESG Desk Guide*” means the document published by HUD which supplements the federal regulations pertaining to the Emergency Shelter Grants Program.

“*IFA*” means the Iowa finance authority.

“*Major rehabilitation*” means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

“*Obligated*” means that IFA has placed orders, awarded contracts, received services, or entered into similar transactions that require payment from the grant amount. Funds awarded by IFA by a written agreement or letter of award requiring payment from the grant amount are obligated.

“*Private, nonprofit organization*” means a secular or religious organization described in Section 501(c) of the Internal Revenue Code which:

1. Is exempt from taxation under Subtitle A of the Internal Revenue Code,
2. Has an accounting system and a voluntary board,
3. Practices nondiscrimination in the provision of services to clients, and
4. Has registered with the state of Iowa as a nonprofit corporation.

“*Recipient*” means any private, nonprofit organization or city or county government to which IFA distributes ESG program funds.

“*Rehabilitation*” means repair directed toward an accumulation of deferred maintenance; replacement of principal fixtures and components of existing buildings; installation of security devices; and improvement through alterations or additions to, or enhancements of, existing buildings, including improvements to increase the efficient use of energy in buildings. Costs of rehabilitation may include labor, materials, tools, and other costs of improving buildings.

“*Renovation*” means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

“*SAF*” means the shelter assistance fund, as set forth in 265—Chapter 41.

“*Subrecipient*” means any private, nonprofit organization or city or county government to which the recipient distributes ESG program funds.

“*Transitional housing*” means a project that is designed to provide housing and appropriate support services to homeless persons to facilitate movement to independent living within a specified time frame.

“*Value of the building*” means the monetary value assigned to a building by an independent real estate appraiser or as otherwise reasonably established by the recipient or the subrecipient.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.3(16) Eligible applicants.** City governments, county governments, and private, nonprofit organizations are eligible applicants under the ESG program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter, meals, clothing, transportation, counseling, child care, legal services, medical services, transitional housing services, and other services eligible under the ESG program as determined by HUD.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.4(16) Eligible activities.** Eligible activities are based on guidelines established by the Stewart B. McKinney Homeless Assistance Act of 1987 and are further defined in 24 CFR Part 576 and the HUD Desk Guide. Activities assisted by this program may include only the following:

**42.4(1) Construction.** Rehabilitation, renovation, or conversion of buildings for use in the provision of services for the homeless.

**42.4(2) Essential services—new or increased level of services.** Provision of essential services if the service is a new service or quantifiable increase in the level of service. ESG program funds may not be used to replace existing funding sources for services; however, once a new or increased level of service meets the standards, ESG program funds may be used to continue funding the service in subsequent years. No more than 30 percent of the IFA annual grant amount may be used for this purpose.

**42.4(3) Operating costs.** Payment of emergency shelter and transitional housing operating costs including shelter maintenance, operations, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings. Staff salaries, including fringe benefits, paid under the operating cost category are limited to 10 percent of the grant amount. Maintenance and security costs are not subject to the 10 percent standard.

**42.4(4) Prevention of homelessness.** Payment for eligible activities that assist in the prevention of homelessness. Grants may be made for homeless prevention as long as the total amount of such grants does not exceed 30 percent of the total emergency shelter grants program allocation. Examples of eligible activities include, but are not limited to, short-term subsidies to help defray rent and utility arrearages for families faced with eviction or termination of utility services; security deposits or first month’s rent to enable a family to acquire its own rental unit; programs to provide mediation services for landlord-tenant disputes; or programs to provide legal representation to indigent tenants in eviction proceedings. Other possible types of homeless prevention efforts include making needed payments to prevent a home from falling into foreclosure.

**42.4(5) Administrative costs.** A recipient may use a portion of a grant received for administrative purposes as determined by IFA. The maximum allowed for these administrative costs shall be 5 percent of the state ESGP allocation. IFA reserves the authority for distribution of administrative funds.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.5(16) Ineligible activities.** As a general rule, any activity that is not authorized under the provisions of P.L. 100-628 is ineligible to be carried out with ESG program funds. The following are items specifically listed as ineligible in 24 CFR Part 576.

1. Acquisition or new construction of an emergency shelter for the homeless;
2. Rehabilitation administration, such as preparation of work specifications, loan processing, or inspections;

3. Renovation, rehabilitation, or conversion of buildings owned by primarily religious organizations or entities unless the activity complies with all requirements as outlined in 24 CFR Part 576.23(a) and (b).

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.6(16) Application procedures.** IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on forms prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.7(16) Application review process.** The following procedures will be used in the review of applications.

**42.7(1)** Review; threshold criteria; eligible activities.

*a. Review of applications.* Applications will be reviewed by a panel appointed by IFA. Applications will be reviewed based on priorities established during each competition round, in accordance with the state of Iowa consolidated plan for housing and community development. Applicant experience and capacity, as well as past performance, are top priorities. Other review criteria include, but are not limited to, program design, community need, program accessibility, program partnerships, the number of persons or households served, and how well the program leverages other resources.

*b. Threshold criteria.* IFA will identify threshold criteria that all programs must meet in order to be eligible.

*c. Activities eligible during funding cycle.* Each competition round will also specify which of the total eligible program activities will be supported during that competition round.

**42.7(2)** If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application or referred to another funding source or the application may be disqualified.

**42.7(3)** IFA reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application.

**42.7(4)** IFA staff may review applications with other state agencies or other groups with expertise in the area of serving homeless persons before making final funding recommendations. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

**42.7(5)** Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

**42.7(6)** IFA reserves the right to negotiate all aspects of a funding request prior to final approval.

**42.7(7)** IFA shall establish the term of each funding award.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.8(16) Matching requirement.** Each subrecipient of ESG program funds must match the grant amount with an equal amount. In calculating the amount of matching funds, the following may be included: the value of any donated material or building used in the project, the value of any lease on a building used in the project, any salary paid to staff of the subrecipient or to any state subrecipient in carrying out the ESG program, and the time and services contributed by volunteers at the rate of \$5 per hour. For purposes of this rule, IFA will determine the value of any donated material or building, or any lease, using any method reasonably calculated to establish fair market value. IFA may allow an exemption of matching funds up to a maximum of \$100,000 of the state allocation received from HUD for the subrecipients least capable of providing such matching amounts. The subrecipient must document its need to participate in this exemption from matching requirements and must receive prior approval from IFA before the exemption will be effective.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.9(16) Funding awards.**

**42.9(1) Awards on behalf of multiple applicants.** A city or county government or nonprofit organization may be designated, at the discretion of IFA, to administer a contract for multiple applicants within a prescribed geographic area.

**42.9(2) Right to negotiate.** IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.

**42.9(3) Special purpose awards.** IFA may, at its discretion, award any remaining funds as it sees fit within the ESG program regulations.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.10(16) Restrictions placed on recipients and subrecipients.**

**42.10(1) Use as provider of homeless services.** Any building for which ESG program funds are used must be maintained as a provider of homeless services for not less than a three-year period or for not less than a ten-year period if the funding amounts are used for major rehabilitation or conversion of the building. If program funds are used for operating and maintenance costs, the recipient must continue to provide homeless services for at least one year. In calculating the applicable time period, the beginning dates of the three- and ten-year periods are determined as follows:

*a.* In the case of a building that was not operated as a provider of services for the homeless before receipt of ESG program funds, on the date of initial occupancy as a provider of services to the homeless.

*b.* In the case of a building that was operated as a provider of services to the homeless before the receipt of ESG program funds, on the date that those funds are first obligated to the homeless service provider.

**42.10(2) Building standards.** Any building for which ESG program funds are used for renovation, conversion, rehabilitation, or major rehabilitation must comply with all state and local building codes and ordinances and any other applicable legal requirements.

**42.10(3) Participation by homeless individuals and families.**

*a.* A recipient or subrecipient of ESG program funds must certify that it involves, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating assisted facilities and in providing services.

*b.* Local government recipients or subrecipients or qualified recipients or subrecipients must have the participation of at least one homeless person or formerly homeless person on their board of directors or equivalent policymaking entity. The Secretary of HUD may issue a waiver to the recipient or subrecipient if the recipient or subrecipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.

**42.10(4) Termination of assistance and grievance procedure.** Recipients and subrecipients must establish and implement a formal process to terminate assistance to individuals or families who violate program requirements. This process must include a hearing that provides individuals a full opportunity to address issues of noncompliance.

**42.10(5) Data reporting system.** Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract.

**42.10(6) Ensuring confidentiality.** Recipients and subrecipients must develop and implement procedures to guarantee the confidentiality of records pertaining to any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any family violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

**265—42.11(16) Compliance with applicable federal and state laws and regulations.** All recipients and subrecipients shall comply with the Iowa Code governing activities performed under this program and with all applicable provisions of the Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations. Use of ESG program funds must comply with the following additional requirements.

**42.11(1) *Nondiscrimination and equal opportunity.*** All recipients and subrecipients must comply with the following:

*a.* The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107 (June 1, 1999); and Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2002d) and implementing regulations at 24 CFR Part 1 (June 1, 1999).

*b.* Affirmative action requirements as implemented with Executive Orders 11625, 12432, and 12138 which require that every effort be made to solicit the participation of minority and women business enterprises (MBE/WBE) in governmental projects.

*c.* The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07).

*d.* The prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

**42.11(2) *Auditing.*** All recipients and subrecipients must comply with auditing requirements as outlined in the Single Audit Act of 1996 and the implementing regulations found in OMB Circular A-133.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

## **265—42.12(16) Administration.**

**42.12(1) *Contracts.*** Upon selection of an application for funding, IFA will either initiate a contract or authorize another entity to initiate a contract on IFA's behalf. If a local city or county government or a nonprofit organization is designated as the recipient, the subrecipients covered through the contract shall remain responsible for adherence to the requirements of the ESG program, including the federal ESG program rules and the state program rules as set forth herein. These rules and applicable federal and state laws and regulations become part of the contract. Certain activities may require that permits or clearances be obtained from other state or federal agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements.

**42.12(2) *Record keeping and retention.*** Financial records, supporting documents, statistical records, and all other records pertinent to the funded program shall be retained by the recipient and the subrecipient. Private, nonprofit recipients and subrecipients covered through an ESG program contract from a local city or county government or nonprofit organization are responsible for ensuring that pertinent records of their ESG program funds be made available to the administering city or county or nonprofit organization and to IFA upon request. Proper record retention must be in accordance with the following:

*a.* Records for any assisted activity shall be retained for three years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

*b.* Representatives of the Secretary of the U.S. Department of Housing and Urban Development, the Inspector General, the General Accounting Office, the state auditor's office, and IFA shall have access to all books, accounts, documents, records, and other property belonging to or in use by a recipient or subrecipient pertaining to the receipt of assistance under these rules.

**42.12(3) *Reporting requirements.*** Recipients and subrecipients shall submit reports to IFA as prescribed in the contract. Reports include:

*a.* HMIS data reports. All recipients and subrecipients of ESG program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA; provided, however, that a recipient or subrecipient that qualifies as a domestic violence shelter shall not be required to report personally identifiable information about its homeless domestic violence clients. "Personally identifiable information" shall include any information that the reporting domestic violence shelter reasonably determines could be used to identify a particular client.

*b.* Requests for funds. Recipients and subrecipients must submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient and subrecipient records and reports. When problems of compliance are noted, IFA may require remedial

actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in 42.12(5).

**42.12(4) Amendments to contracts.** Contracts may be amended on an individual basis in emergency situations. Any request to amend a contract must be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

**42.12(5) Remedies for noncompliance.** At any time, IFA may, for cause, find that a recipient or subrecipient is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the recipient's or subrecipient's use of program funds for activities not described in its application, the recipient's or subrecipient's failure to complete approved activities in a timely manner, the recipient's or subrecipient's failure to comply with any applicable state or federal rules or regulations, or the recipient's or subrecipient's lack of continuing capacity to carry out the approved program in a timely manner. At IFA's discretion, remedies for noncompliance may include the following:

*a.* Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.

*b.* Condition a future award.

*c.* Direct the recipient or subrecipient to stop incurring costs with grant funds.

*d.* Require that some or all of the awarded funds be remitted to the state.

*e.* Reduce the level of funds the recipient or subrecipient would otherwise be entitled to receive.

*f.* Elect not to provide future award funds to the recipient or subrecipient until appropriate actions are taken to ensure compliance.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

These rules are intended to implement Iowa Code section 16.5(1) "m" and 42 U.S.C. Sections 11371 through 11378.

[Filed Emergency ARC 9166B, IAB 10/20/10, effective 10/1/10]

[Filed ARC 9282B (Notice ARC 9167B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]

**EDUCATION DEPARTMENT[281]**

Created by 1986 Iowa Acts, chapter 1245, section 1401.  
 Prior to 9/7/88, see Public Instruction Department[670]  
 (Replacement pages for 9/7/88 published in 9/21/88 IAC)

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CHAPTER 17  
OPEN ENROLLMENT

**281—17.1(282) Intent and purpose.** It is the intent of Iowa Code section 282.18 to maximize parental choice in providing a wide range of educational opportunities which are not available for pupils because of where they live. It is the purpose of this chapter to give guidance and direction to parents/guardians, public school district administrators and boards in making quality decisions regarding school district choice for the education of pupils.

**281—17.2(282) Definitions.** For the purpose of this chapter the indicated terms are defined as follows:

*“Alternative receiving district”* means a district to which a parent/guardian petitions for the open enrollment of a pupil from a receiving district. An alternative receiving district could be the district of residence of the parents/guardians.

*“Attendance center”* means a public school building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.

*“Court-ordered desegregation plan”* means a plan that is under direct court order to avoid racial isolation in the district.

*“Department”* means the department of education.

*“Director”* means the director of the department of education or the director’s designee.

*“Diversity plan”* or *“voluntary diversity plan”* means a plan that is voluntarily adopted by a local school board to promote diversity and to avoid minority student isolation in the district.

*“Eligible district”* means a school district whose board had adopted a voluntary desegregation plan under this chapter prior to June 28, 2007.

*“Minority student”* shall be defined by a local school board in its diversity plan, and may include consideration of any one characteristic or a combination of any of the following characteristics except that race may not be either the sole or the determinative characteristic: socioeconomic status, ethnicity/national origin, English language learner status, or race.

*“Open enrollment”* is the procedure allowing a parent/guardian to enroll one or more pupils in a public school district other than the district of residence at no tuition cost.

*“Receiving district”* is the public school district in which a parent/guardian desires to have the pupil enrolled or the district accepting the application for enrollment of a pupil under the provisions of Iowa Code section 282.18.

*“Resident district”* is the district of residence for school purposes of the parent/guardian and the district in which an open enrollment pupil shall be counted for the purpose of generating state aid regardless of the district in which the pupil is enrolled.

*“Sending district”* is synonymous with the term resident district.

*“Sibling”* means a child residing primarily in the same household as the child for whom an open enrollment request is filed and who is related by adoption, blood or marriage to the child for whom an open enrollment request is filed. “Sibling” also includes a foster child who is placed in the same household as the child for whom an open enrollment request is filed.

*“Socioeconomic status”* means the income level of a student or the student’s family, and shall be measured by whether a student or the student’s family meets the financial eligibility criteria for free meals or reduced price meals offered under the Child Nutrition Program.

**281—17.3(282) Application process.** The following procedure shall be used by parents/guardians and school districts in processing open enrollment applications.

**17.3(1) Parent/guardian responsibilities.** On or before March 1 of the school year preceding the school year for which open enrollment is requested, a parent/guardian shall formally notify both the district of residence and the receiving district of the request for open enrollment. The request for open enrollment shall be made on forms provided by the department of education. The parent/guardian is required to indicate on the form if the request is for a pupil requiring special education, as provided

by Iowa Code chapter 256B. The forms for open enrollment application are available from each public school district, area education agency, and the state department of education.

**17.3(2) School district responsibilities.** The board of the resident district shall take no action on an open enrollment request except for a request made under rule 17.5(282) or 17.14(282). The board of the receiving district shall act on an open enrollment request no later than June 1 of the school year preceding the school year for which the request is made.

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

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

The parent/guardian may withdraw an open enrollment request anytime 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(3) and 17.8(4).

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

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

- a. Open enrollment deadlines;
- b. Transportation assistance;
- c. That within 30 days of a denial of an open enrollment request by a district board of education, the parent/guardian may file an appeal with the state board of education only if the open enrollment request was based on repeated acts of harassment or a serious health condition of the student that the district cannot adequately address; and that all other denials must be appealed to the district court in the county in which the primary business office of the district is located; and
- d. Possible loss of athletic eligibility for open enrollment pupils.

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

**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.

**281—17.4(282) Filing after the March 1 deadline—good cause.** 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 and before the date specified in Iowa Code section 257.6, subsection 1, of that calendar year if good cause exists for the failure to meet the deadline. Good cause is a change in the status of the pupil's residence or a change in the status of the pupil's resident district taking place

after March 1, or the closing or loss of accreditation of a nonpublic school of attendance after March 1 resulting in the desire of the parent/guardian to obtain open enrollment for the following school year. If good cause can be established, the parent/guardian shall be permitted to apply for open enrollment in the same manner as if the deadline had been met pursuant to rule 17.3(282).

Consideration of an open enrollment request filed under the provision of good cause does not preclude the authority, as appropriate, for the resident or receiving district to administer board policy related to insufficient classroom space or the requirements of a desegregation plan or order in acting to approve or deny the request. (See subrules 17.6(2) and 17.6(3).)

**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 after March 1 of the school year preceding the school year for which open enrollment is requested.

*b.* 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.

*c.* A change in the marital status of the pupil's parents.

*d.* A guardianship or custody proceeding.

*e.* Placement of the child in foster care.

*f.* Adoption.

*g.* Participation in a foreign exchange program.

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

**17.4(2)** Good cause related to change in status of the pupil's resident district or nonpublic school of attendance shall include:

*a.* Reorganization action.

(1) Failure of the area education board to vote in favor of a reorganization proposal,

(2) Failure of the area education board to act on objections to exclude territory from a reorganization proposal,

(3) Failure of a reorganization election,

(4) Rescinded IAB 3/8/00, effective 4/12/00.

*b.* Dissolution action.

(1) Failure of a dissolution commission to make a recommendation to the board of directors,

(2) Failure of the board to take positive action on objections filed by residents of the district to a dissolution proposal,

(3) Failure of contiguous districts to accept a dissolution proposal,

(4) Failure of an election on a dissolution proposal.

*c.* Whole grade sharing action.

(1) Failure of the board to pursue negotiations for a whole grade sharing proposal for which it has given public notice by board action of its intent to pursue,

(2) Failure of the board to approve a request by a parent/guardian to send an affected pupil to a contiguous district rather than to the district party to the agreement,

(3) Failure of the board to extend or renew a whole grade sharing agreement,

(4) Unilateral rejection by one board of a whole grade sharing agreement prior to expiration of the term of the agreement.

*d.* Loss of accreditation.

(1) Removal of accreditation by the state board after March 1.

(2) Surrender of accreditation after March 1.

(3) Permanent closure of a nonpublic school after March 1.

*e.* Rescinded IAB 8/21/02, effective 9/25/02.

On open enrollment requests for good cause related to a change in status of the pupil's school district of residence, action by a parent/guardian must be taken to file notification within 45 days of the last board action or within 30 days of the certification of an election, whichever circumstance is applicable.

**17.4(3)** Good cause shall not include:

*a.* Actions of a board of education in the designation of attendance centers within a school corporation and in the assignment of pupils to such centers as provided by Iowa Code section 279.11.

*b.* Actions of a board of education in making its own rules of government for the internal organization and operation of the school corporation as provided by Iowa Code section 279.8.

**17.4(4)** Rescinded IAB 8/21/02, effective 9/25/02.

**17.4(5)** Timelines for board action on applications filed after March 1 for good cause. The board of the receiving district shall act on the request within 30 days of its receipt. The same timelines for approval, forwarding, and notification shall apply.

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

**17.4(6)** If the resident district believes that the board of the receiving district approved a late-filed open enrollment request that does not meet the definition of “good cause” under Iowa Code section 282.18(4) “*b*,” the resident district may appeal to the director.

*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 to the director within the 30-day time period.

*b.* The director shall, upon receipt of an appeal, first attempt to mediate the dispute. If mediation is unsuccessful, the director shall schedule a telephonic hearing for the purpose of hearing testimony from both boards.

*c.* If a hearing is necessary, the boards may stipulate to any or all facts to be considered by the director. At the sole discretion of the director, an in-person hearing may be scheduled. The director shall issue a written decision within ten days of the hearing, upholding or reversing the decision of the board of the receiving district.

*d.* Within five days of the issuance of the decision of the director, the aggrieved board may appeal the decision to the state board of education under the procedures in Iowa Code chapter 290.

**281—17.5(282) Filing after the March 1 deadline—harassment 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 or if the child has a serious health condition that the resident district cannot adequately address. If either 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)** 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)** 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.

**281—17.6(282) Restrictions to open enrollment requests.** A district board may exercise the following restrictions related to open enrollment requests.

**17.6(1) *Enrollment loss caps.*** Rescinded IAB 12/8/93, effective 1/12/94.

**17.6(2) *Voluntary diversity plans or 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 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.

**17.6(3) *Policy on insufficient classroom space.*** No receiving district shall be required to accept an open enrollment request if it has insufficient classroom space to accommodate the pupil(s). Each district board shall adopt a policy which defines the term "insufficient classroom space" for that district. This policy shall establish a basis for the district to make determinations on the acceptance or denial, as a receiving district, of an open enrollment request. This policy may include, but shall not be limited to, one or more of the following: nature of the educational program, grade level, available instructional staff, instructional method, physical space, pupil-teacher ratio, equipment and materials, facilities either being planned or under construction, facilities planned to be closed, finances available, sharing agreement in force or planned, bargaining agreement in force, law or rules governing special education class size, or board-adopted district educational goals and objectives. This policy shall be reviewed annually by the district board.

**17.6(4) *Designation of attendance center.*** The right of a parent/guardian to request open enrollment is to a district other than the district of residence, not to an attendance center within the nonresident district. In accepting an open enrollment pupil, the receiving district board has the same authority it has in regard to its resident pupils as provided by Iowa Code section 279.11, to "determine the particular school which each child shall attend." In the application process, however, the parent or guardian may request an attendance center of preference.

**281—17.7(282) Open enrollment for kindergarten.** 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 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 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 17.4(282) shall apply to applications for a kindergarten pupil.

**281—17.8(282) Requirements applicable to parents/guardians and students.**

**17.8(1) *Expelled or suspended students.*** A pupil who has been suspended or expelled by action of the administration or board of the resident district shall not be permitted to enroll if an open enrollment request is filed until the pupil is reinstated for school attendance in the resident district. Once reinstated, the application for open enrollment shall be considered in the same manner as any other open enrollment request. If a pupil for whom an open enrollment request has been filed is subsequently expelled by action of the resident district board, the pupil may be denied enrollment by the receiving district board until

the pupil is reinstated for school attendance by the resident district. The provisions of this subrule shall also apply to a pupil who has been suspended or expelled in a receiving district and is requesting open enrollment to an alternative receiving district or is seeking to return to the resident district as outlined in subrule 17.8(4).

**17.8(2) Restrictions on participation in interscholastic athletic contests and competitions.** 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. This 90-school-day restriction is not applicable to a pupil who:

a. Participates in an athletic activity in the receiving district that is not available in the district of residence.

b. Participates in an athletic activity for which the resident district and the receiving district have a “cooperative student participation agreement” in place as provided by rule 281—36.20(280).

c. Has paid tuition for one or more years to the receiving school district prior to making application and being approved for open enrollment.

d. Has attended the receiving district for one or more years, prior to making application and being approved for open enrollment, under a sharing or mutual agreement between the resident district and the receiving district.

e. Has been participating in open enrollment and whose parents/guardians move out of their district of residence but exercise the option of maintaining the open enrollment agreement as provided in subrule 17.8(6) except that the period of 90 school days of ineligibility shall apply to a student who open enrolls to another school district. If the pupil has established athletic eligibility under open enrollment, it is continued despite the parent’s or guardian’s change in residence.

f. Obtains open enrollment as provided in subrule 17.8(7) except that the period of 90 school days of ineligibility shall apply to a student who open enrolls to another school district.

g. Obtains open enrollment due to the dissolution and merger of the former district of residence under Iowa Code subsection 256.11(12).

h. Obtains open enrollment due to the pupil’s district of residence entering into a whole-grade sharing agreement on or after July 1, 1990, including the grade in which the pupil would be enrolled at the start of the whole-grade sharing agreement.

i. 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.

j. Rescinded IAB 5/15/02, effective 6/19/02.

**17.8(3) Term of enrollment.** Rescinded IAB 10/9/96, effective 11/13/96.

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

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

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

**17.8(5) *Renewal of an open enrollment agreement.*** An open enrollment agreement shall remain in place unless canceled by the parent/guardian or terminated as outlined in the provisions of subrule 17.8(10).

**17.8(6) *Change in residence when participating in open enrollment.*** If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent/guardian shall have the option to leave the pupil in the receiving district under open enrollment, to open enroll to another school district, or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment or to open enroll to another school district, the original district of residence 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, 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).

**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. 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, 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.

**17.8(8) *Pupil governance.*** An open enrollment pupil, and where applicable the pupil's parent/guardian, shall be governed by the rules and policies established by the board of directors of the receiving district. Any complaint or appeal by the parent/guardian concerning the educational system, its process, or administration in the receiving district shall be initially directed to the board of directors of that district in compliance with the policy of that district.

**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. 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.

**17.8(10) *Open enrollment termination.*** Open enrollment ends when:

*a.* The pupil graduates, moves into the receiving district, moves into a third district and does not elect to continue attending in the receiving district, moves out of state, elects to attend a nonpublic school

instead of the receiving district, or any other circumstance not excepted below that results in the pupil no longer attending the receiving district.

EXCEPTIONS: This rule shall not apply if the pupil is placed temporarily in foster care, a juvenile detention center, mental health or substance abuse treatment facility, or other similar placement. In such cases, the open enrollment status will automatically be reinstated when the pupil returns.

*b.* The pupil drops out of school. In this instance, if the pupil desires to return to the resident district during the term of the original open enrollment, notice must be given as outlined in the provisions of subrule 17.8(4).

### **281—17.9(282) Transportation.**

**17.9(1) Parent responsibilities.** The parent/guardian of a pupil who has been accepted for open enrollment shall be responsible to transport the pupil without reimbursement, except as provided in subrule 17.9(2), to and from a point on a regular school bus route of the receiving district. This point shall be a designated stop on the bus route of the receiving district. If this point—designated stop— is within the distances established by Iowa Code section 285.1 from the school designated for attendance by the receiving district, that district may, but is not required to, provide transportation for an open enrollment pupil. A receiving district may send buses into a resident district solely for the purpose of transporting an open enrollment pupil if the boards of both the sending and receiving districts agree to this arrangement. Bus routes that are outside the boundary of the receiving district that have been authorized by an area education agency board of directors, as provided by Iowa Code subsection 285.9(3), may be used to transport open enrollment pupils if boards of directors of the resident and receiving districts have both taken action to approve such an arrangement. Bus routes that have been established by the receiving district for the purpose of transporting nonpublic school or special education pupils that operate in the resident district of an open enrollment pupil shall not be utilized for the transportation of such pupil for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both taken action to approve such an arrangement. Bus routes transporting pupils for the purpose of whole-grade sharing shall not be used to transport open enrollment pupils for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both taken action to approve such an arrangement.

**17.9(2) Qualifications and provisions for transportation assistance.** Open enrollment pupils that meet the economic eligibility requirements established by the department of education shall receive transportation assistance from their resident district under the following conditions. The resident district is not required to provide any transportation assistance for a pupil involved in open enrollment with a district that is not contiguous with the pupil's resident district. The resident district shall provide transportation for the pupil to a point that is a designated stop on a regular bus route of a contiguous receiving district, or as an alternative, the resident district shall pay the parent/guardian for providing this transportation. In either situation the resident district is not obligated to expend more than the average cost per pupil transported amount established for that district for the previous school year. If the resident district provides the transportation, it shall determine that it is able to perform this function at a cost not in excess of the average cost per pupil transported for the resident district as established the previous year. It shall not assess any additional cost to the parent/guardian for providing transportation. If the district chooses to reimburse the parent/guardian for providing transportation, to determine the amount to be reimbursed, the district shall use the provisions of Iowa Code subsection 285.1(3). This reimbursement shall not exceed the average cost per pupil transported for the resident district as established the previous year. The resident district may withhold from the amount it is required to pay to a receiving district for an open enrollment pupil the actual amount or the average cost per pupil transported amount it pays for transportation assistance, whichever is the lesser amount.

**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. Since the

federal income poverty guidelines are adjusted each year, the department of education shall provide revised eligibility guidelines to school districts each year.

**281—17.10(282) Method of finance.** Open enrollment options shall be made available for pupils at no instructional cost to their parents/guardians. Open enrollment pupils shall be considered enrolled resident pupils in the resident district and shall be included in the certified enrollment count of that district for the purposes of generating school foundation aid.

**17.10(1) Full-time pupils.** Unless otherwise agreed to in the mediation under paragraph 17.4(6) “b,” for full-time pupils, the resident district shall pay each year to the receiving district an amount equal to the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

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

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

**17.10(4) Transportation assistance.** The resident district may deduct any transportation assistance funds for which the pupil is eligible as provided by subrule 17.9(2).

**17.10(5) Method of payment.** These moneys shall be paid to the receiving district on a quarterly basis. The district cost per pupil for nonspecial education students shall be the cost calculated each year for the school year preceding the school year for which the open enrollment takes place. Costs for special education students shall be as outlined in rule 17.11(282).

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

**17.10(7) Late changes of open enrollment.** The resident district and the receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a petition for such change which is approved by the two boards. A change due to good cause is a late change in enrollment. If any change in enrollment is made on or after the date specified in Iowa Code section 257.6, subsection 1, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

**17.10(8)** A student under open enrollment is eligible to be counted for supplementary weighting pursuant to 281—subrule 97.2(5) for qualifying concurrent enrollment classes in which the student is enrolled, including concurrent enrollment classes provided via the ICN. An open enrolled student who is under competent private instruction (CPI) shall be weighted in the student’s receiving district, and no tuition shall be billed to the resident district. An open enrolled student who is not under CPI shall be weighted in the resident district, and the funding shall be sent to the receiving district in addition to open enrollment tuition.

*a.* If the open enrolled student is present in the resident district on October 1 of the school year, the resident district shall count the student, excluding a student under CPI, for supplementary weighting.

*b.* The concurrent enrollment course must qualify for supplementary weighting in the receiving district pursuant to 281—subrule 97.2(5).

*c.* The resident district shall forward the weighting generated for the concurrent enrollment for that student using the district cost per pupil of the school year. The amount generated is calculated as the supplementary weighting full-time-equivalency for that one student for each qualified concurrent enrollment course multiplied by the current school year's district cost per pupil in the resident district.

*d.* The receiving district shall pay the community college the tuition negotiated for the course. The tuition negotiated may cost the receiving district a different amount than that received from the resident district. No additional amount may be charged to the resident district, the student, or the parent, guardian, or legal custodian.

*e.* If the student was not present in the resident district on October 1 of the school year and is a late transfer, the receiving district bears all the tuition cost and shall not bill the resident district in the first year pursuant to subrule 17.10(7).

[ARC 9261B, IAB 12/15/10, effective 1/19/11]

**281—17.11(282) Special education students.** If a parent/guardian requests open enrollment for a pupil requiring special education, as provided by Iowa Code chapter 256B, this request shall receive consideration under the following conditions. The request shall be granted only if the receiving district is able to provide within that district the appropriate special education program for that student in accordance with Iowa rules of special education, 281—41.84(256B,273,34CFR300). This determination shall be made by the receiving district in consultation with the resident district and the appropriate area education agency(ies) before approval of the application. In a situation where the appropriateness of the program is in question, the pupil shall remain enrolled in the program of the resident district until a final determination is made. If the appropriateness of the special education program in the resident district is questioned by the parent, then the parent should request a due process hearing as provided by 281—41.113(1). If the appropriateness of the special education program in the receiving district is at issue, the final determination of the appropriateness of a special education instructional program shall be the responsibility of the director of special education of the area education agency in which the receiving district is located, based upon the decision of a diagnostic-education team from the receiving district which shall include a representative from the resident district that has the authority to commit district resources.

District transportation requirements, parent/guardian responsibilities and, where applicable, financial assistance for an open enrollment special education pupil shall be as provided by rule 17.9(282).

The district of residence shall pay to the receiving district on a quarterly basis 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 fourth quarter 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.

**281—17.12(282) Laboratory school provisions.** A parent/guardian may make a request for open enrollment transfer to a laboratory school operated by the state board of regents. The regents institution

operating a laboratory school and the board of directors of the public school district in which the laboratory school is located shall develop a transfer policy. This policy shall include:

1. A provision that the total number of pupils enrolled in a laboratory school in any one year shall not exceed 670 pupils.
2. Provisions to protect and promote the quality and integrity of the teacher education program of the laboratory school.
3. Provisions to protect and promote the viability of the education program of the public school district.
4. The order in which and the reasons why requests to transfer to the laboratory school shall be considered.

The denial of a request to transfer to a laboratory school is not subject to appeal by a parent/guardian under Iowa Code section 290.1.

A pupil that is accepted for open enrollment transfer to a laboratory school shall not be included in the basic enrollment of the resident district with the laboratory school reporting the enrollment directly to the department of education with the following exception. If the number of pupils enrolled in the laboratory school from a school district during the current year exceeds the number enrolled from that district during the 1989-1990 school year, the pupils representing the difference between the current and the 1988-1989 school year enrollment for the district shall be included in the basic enrollment of the resident district with the district retaining the money generated through the foundation aid formula.

**281—17.13(282) Applicability.** For implementing the open enrollment provisions of Iowa Code section 282.18, the provisions of this chapter shall be retroactively applicable to June 5, 1989.

**281—17.14(282) Voluntary diversity plans or court-ordered desegregation plans.**

**17.14(1) Applicability.** These rules govern only the components of a voluntary diversity plan or court-ordered desegregation plan as the plan affects open enrollments. Nothing herein shall prohibit a district from implementing a lawful voluntary diversity plan or court-ordered desegregation plan or components thereof for transfers other than open enrollment.

**17.14(2) Eligibility to adopt and implement a plan applicable to open enrollments.**

*a. Adoption.* The board of an eligible school district may adopt a voluntary diversity plan with a component that applies to open enrollments if either of the following conditions exists: (1) The percentage of minority students in the district exceeds the percentage of minority students in the state by at least 20 percentage points; or (2) the percentage of minority students in one or more attendance centers in the district exceeds the percentage of minority students in the district as a whole by at least 20 percentage points.

*b. Implementation.* The open enrollment component of the plan adopted by the district board shall only be implemented by the district if other components of the diversity plan describe the steps the district is taking internally to avoid or reduce minority student isolation, and the district demonstrates the extent to which it has implemented those steps. For districts with multiple attendance centers at the same grade level, such steps may include intradistrict student transfer policies, pairing of attendance centers, revision of boundaries of attendance centers, selecting school sites, realignment of feeder systems, magnet schools, and the placement of specialized programs and services. In a district without multiple attendance centers at the same grade level, such steps may include pupil assignments to classrooms, classroom pairing, community and family outreach programs, student-to-student mentoring or grouping designed to promote understanding and acceptance of and positive interactions with all groups of minority students, and professional development activities designed to promote understanding and acceptance of and positive interactions with all groups of minority students. The open enrollment component of the plan adopted by the district board may remain in effect for so long as the district's total minority student population exceeds 15 percent, and shall remain in effect for so long as the district demonstrates is necessary to avoid minority student isolation in the district.

**17.14(3)** *Open enrollment elements of a diversity plan.*

a. All applicable deadlines for the filing and determination of open enrollment requests, including the exceptions for good cause under rule 17.4(282), apply to open enrollment requests filed in a district that has adopted an open enrollment component in its voluntary diversity plan.

b. The plan shall establish a districtwide ratio of minority-to-nonminority students to be maintained, consistent with subrule 17.14(2). All open enrollment requests, both those into and out of the district, shall be acted on according to whether the request will adversely affect or will positively affect the implementation of the plan. Under Iowa Code section 282.18, if an open enrollment request would positively affect the plan, the district shall give priority to granting the request over other requests.

c. A district with multiple attendance centers at the same grade level shall specify in the open enrollment component of its diversity plan which attendance centers are affected by the open enrollment component. For each of those attendance centers, the district shall establish and specify the individual attendance center ratios of minority-to-nonminority students, consistent with subrule 17.14(2). The plan may provide for an initial determination of whether a requested open enrollment will negatively affect the specific attendance center ratio. With respect to a request to open enroll out of the district, if such enrollment will negatively affect the ratio established for the student's current attendance center, the request may be denied by the district with no further determination of the impact of the request on the districtwide ratio. For a request to open enroll either into or out of the district, if the open enrollment will not negatively affect the attendance center ratio, the request shall be denied only if there would be a negative impact on the districtwide ratio. As of July 1, 2003, if a district's plan sets a threshold lower than allowed in paragraph 17.14(2) "a" and that plan has not been disapproved by a court of competent jurisdiction, the district may implement its individual attendance center ratios in addition to its districtwide ratio.

d. The plan shall include provision for the formation and operation of a waiting list for those requests that could not be granted immediately. A parent/guardian of a child on the waiting list must be informed by the district of the details of the operation of the list and whether the parent/guardian must refile a timely request for open enrollment in order to remain on the waiting list.

e. The plan shall specify a district contact person to whom questions may be directed from parents/guardians.

f. The plan shall include a provision whereby a parent/guardian has a means to request that the district determine whether a hardship exists for granting a request that may not otherwise be granted under the plan.

**17.14(4)** *Exceptions.* The following exceptions shall apply:

a. If an open enrollment request is filed on behalf of a student whose sibling is already participating in open enrollment to the same district to which the student desires open enrollment, the request shall be granted.

b. If an open enrollment request is filed on behalf of a student whose parent/guardian moves out of the school district of residence and who wishes to remain in the district of residence as an open enrolled student without interruption in the student's educational program under subrule 17.8(7), the request shall be granted. This option is not available to the parent/guardian of a student who is entering kindergarten for the first time.

c. A request for open enrollment based on repeated acts of harassment of the student shall not be denied on the basis that such request would have an adverse impact on the district's ratio of minority-to-nonminority students.

d. A request for open enrollment based on a serious health condition of the student that the district cannot adequately address shall not be denied on the basis that such request would have an adverse impact on the district's ratio of minority-to-nonminority students.

**17.14(5)** *Review by department.* All voluntary desegregation plans adopted under this rule prior to June 28, 2007, are no longer valid. An eligible district whose board desires to adopt a voluntary diversity plan for open enrollment must do so by March 1, 2008. The district shall submit a copy of its plan to the department for review within 10 days of the adoption of the plan. Open enrollment requests received

prior to March 1, 2008, by a district that has a voluntary diversity plan may be held by the district for action pursuant to the district's new voluntary diversity plan.

The department shall inform the district within 10 days of receipt of the district's voluntary diversity plan whether the plan complies with this rule. All changes to voluntary diversity plans for open enrollment shall be submitted to the department within 60 days of local board action.

These rules are intended to implement Iowa Code Supplement section 282.18.

[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]

[Filed 2/2/90, Notices 7/26/89, 8/9/89—published 2/21/90, effective 3/28/90]

[Filed emergency 5/25/90—published 6/13/90, effective 5/25/90]

[Filed 9/28/90, Notice 6/13/90—published 10/17/90, effective 11/21/90]

[Filed 11/22/91, Notice 10/2/91—published 12/11/91, effective 1/15/92]

[Filed 8/26/92, Notice 6/24/92—published 9/16/92, effective 10/21/92]

[Filed 11/19/93, Notice 9/29/93—published 12/8/93, effective 1/12/94]

[Filed 11/17/94, Notice 9/28/94—published 12/7/94, effective 1/11/95]

[Filed 11/21/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]

[Filed 9/13/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]

[Filed 3/20/98, Notice 2/11/98—published 4/8/98, effective 5/13/98]

[Filed 2/11/00, Notice 12/15/99—published 3/8/00, effective 4/12/00]

[Filed emergency 8/4/00—published 8/23/00, effective 8/7/00]

[Filed 4/19/02, Notice 2/6/02—published 5/15/02, effective 6/19/02]

[Filed 8/2/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]

[Filed emergency 11/21/02—published 12/11/02, effective 11/21/02]

[Filed 1/17/03, Notice 12/11/02—published 2/5/03, effective 3/12/03]

[Filed 6/17/04, Notice 5/12/04—published 7/7/04, effective 8/11/04]

[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]

[Filed 7/27/07, Notice 5/9/07—published 8/15/07, effective 9/19/07]

[Filed 2/8/08, Notice 12/19/07—published 2/27/08, effective 4/2/08]

[Filed 11/20/08, Notice 8/27/08—published 12/17/08, effective 1/21/09]

[Filed ARC 9261B (Notice ARC 9143B, IAB 10/6/10), IAB 12/15/10, effective 1/19/11]



TITLE VIII  
SCHOOL TRANSPORTATIONCHAPTER 43  
PUPIL TRANSPORTATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 22]

DIVISION I  
TRANSPORTATION ROUTES**281—43.1(285) Intra-area education agency routes.**

**43.1(1)** Bus routes within the boundaries of transporting districts as well as within designated areas must be as efficient and economical as possible under existing conditions. Duplication of service facilities shall be avoided insofar as possible.

**43.1(2)** A route shall provide a load of at least 75 percent capacity of the bus.

**43.1(3)** The riding time, under normal conditions, from the designated stop to the attendance center, or on the return trip, shall not exceed 75 minutes for high school pupils or 60 minutes for elementary pupils. (These limits may be waived upon request of the parents.)

**43.1(4)** Pupils whose residence is within two miles of an established stop on a bus route are within the area served by the bus and are not eligible for parent or private transportation at public expense to the school served by the bus, except as follows:

*a.* Bus is fully loaded.

*b.* Physical handicap makes bus transportation impractical.

All parents or guardians who are required by their school district to furnish transportation for their children up to two miles to an established stop on a bus route shall be reimbursed pursuant to Iowa Code subsection 285.1(4).

**43.1(5)** Transporting districts shall arrange routes to provide the greatest possible convenience to the pupils. Distance pupils who are required to transport themselves to meet the bus shall be kept to the minimum consistent with road conditions, uniform standards and legal requirements for locating bus routes.

**43.1(6)** Each bus route shall be reviewed annually for safety hazards.

**281—43.2(285) Interarea education agency routes.**

**43.2(1)** Joint consultation shall be held by the area education agency boards involved. The initial steps may be undertaken by the area education agency administrators. If there are no difficulties and agreement is reached, the route is approved and no further action need be taken.

**43.2(2)** If agreement is not reached in the initial attempt, the administrator of the area education agency in which the applying school is located shall advise the superintendent of reasons for failure to reach agreement and request that the superintendent revise the transportation plan to meet the objection and resubmit same.

**43.2(3)** If the area education agency boards do not reach agreement on the route, the home area education agency administrator shall forward the complete record of the case together with disapproved transportation plan to the state department of education. Every effort should be made, however, to settle the matter locally.

**43.2(4)** All legal provisions, standards and regulations applying to approval and operation of bus routes apply equally to interarea education agency bus routes.

**43.2(5)** All interarea education agency bus routes must be approved each year. If there has been no change in the designations, nor in the proposed route, transportation plan may be made and agreement indicated by letter.

DIVISION II  
PRIVATE CONTRACTORS

**281—43.3(285) Contract required.** All private contractors wishing to transport pupils to and from school in privately owned vehicles must be under contract with the board of education. This requirement will not apply to individuals who transport their own children or other children on a not-for-hire basis.

The contract form used shall be that provided by the department of education. (Form TR-F-4-497)

**281—43.4(285) Uniform charge.** The contract must provide for a uniform charge for all pupils transported. No differentiations may be made between pupils of different districts except as provided in Iowa Code section 285.1(12).

**281—43.5(285) Board must be party.** The contractor may not arrange with individual families for transportation. The contractor undertakes to transport only those families indicated by the board of education.

**281—43.6(285) Contract with parents.** Parents, guardians, or custodians undertaking to transport other children for hire, in addition to their own, are private contractors. These individuals must be under contract, and must obtain an appropriate driver's license and a school bus driver's authorization.

**281—43.7(285) Vehicle requirements.** Any vehicle used, other than that used by individuals to transport their own children or other children on a not-for-hire basis, is considered to be a school bus and must meet all requirements for the type of vehicle used. (This requirement is not intended to restrict the use of passenger cars during the time the vehicles are not actually engaged in transporting school pupils.)

DIVISION III  
FINANCIAL RECORDS AND REPORTS

**281—43.8(285) Required charges.** Full pro rata costs must be charged and collected for the transportation of all nonresident pupils. No differentiation may be made in charges due to differences in distance or grade in school.

**281—43.9(285) Activity trips deducted.** Transporting school districts which use their equipment for activity trips, or educational tours, or other types of transportation services as permitted in Iowa Code sections 285.10(9) and 285.10(10), must deduct the cost of trips from the total yearly transportation cost. In other words, costs may not be included in the pro rata costs which determine the charge to sending districts.

Accurate and complete accounting records must be kept so that the cost of transportation to and from school may be ascertained.

DIVISION IV  
USE OF SCHOOL BUSES

**281—43.10(285) Permitted uses listed.** School buses may be used to transport pupils under the following conditions:

**43.10(1)** The program is a part of the regular or extracurricular program of a public school and has been so adopted and made a matter of record in the minutes of all the boards involved.

**43.10(2)** The pupils are enrolled in a public school.

**43.10(3)** The program or activity must be sponsored by a school or group of schools cooperatively and be under the direct control of a qualified teacher or recreational or playground director of a school district.

*a.* A regularly certificated teacher must be in charge of the program. Several or all schools may engage the same instructor on a cooperative basis.

*b.* In transporting pupils to Red Cross swimming classes a superintendent of schools may be designated by action of the district board as the supervisor or director of the activity and may use the Red Cross instructor to carry on the actual instruction in swimming.

*c.* If the Red Cross instructor holds a regular teacher's certificate issued by the board of educational examiners, the instructor can be named as general supervisor of the activity by the several schools.

**43.10(4)** The bus shall be driven by a regularly approved driver holding an appropriate driver's license and a school bus driver's authorization. In addition, the buses must be accompanied by a member of the faculty or other employee of the school or a parent or other adult volunteer as authorized by a school administrator who will be responsible for the conduct and the general supervision of the pupils on the bus and at the place of the activity. If the faculty member is an approved driver, that person can act both as a driver and faculty sponsor.

**43.10(5)** School buses may be used by an organization of, or sponsoring activities for, senior citizens, children, handicapped, and other persons and groups, and for transportation of persons other than pupils to activities in which pupils from the school are participants or are attending the activity or for which the school is a sponsor under the following conditions:

*a.* The "school bus" signs shall be covered and the flashing warning lamps and stop arm made inoperable when the bus is being used in a nonschool-sponsored activity.

*b.* Transportation outside the state of Iowa shall not be provided without the approval of the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

*c.* A chaperone shall accompany each bus to assist the passengers in boarding and disembarking from the bus and to aid them in case of illness or injury.

*d.* The driver of the bus shall be approved by the local board of education and must possess an appropriate driver's license and a school bus driver's authorization.

*e.* The driver of the bus shall observe the maximum speed limits for school buses at all times.

**43.10(6) Seating.**

*a.* Each passenger shall have a comfortable seat.

*b.* Student passengers shall have a minimum of 13 inches of allowable seating per person.

*c.* For adult groups, no more than two persons shall occupy a 39-inch seat.

*d.* Standees are prohibited in all situations, whether the bus is transporting students or adults.

*e.* The maximum number of passengers shall never exceed the rated capacity of the vehicle as it is equipped.

**281—43.11(285) Teacher transportation.** Public school teachers who are transported should be included in the average number transported and should be charged the pro rata cost by the transporting district.

DIVISION V  
THE BUS DRIVER

**281—43.12(285) Driver qualifications.** General character and emotional stability are qualities which must be given careful consideration by boards of education in the selection of school bus drivers. Elements that should be considered in setting a character standard are:

1. Reliability or dependability.
2. Initiative, self-reliance, and leadership.
3. Ability to get along with others.
4. Freedom from use of undesirable language.
5. Personal habits of cleanliness.
6. Moral conduct above reproach.
7. Honesty.
8. Freedom from addiction to narcotics or habit-forming drugs.
9. Freedom from addiction to alcoholic beverages or liquors.

**281—43.13(285) Stability factors.** Factors to be considered in determining emotional stability are:

**43.13(1)** Patience.

**43.13(2)** Considerateness.

**43.13(3)** Even temperament.

**43.13(4)** Calmness under stress.

**281—43.14(285) Driver age.** School bus drivers must be at least 18 years of age on or before August 1 preceding the opening of the school year for which a school bus driver's authorization is required.

**281—43.15(285) Physical fitness.** Except for insulin-dependent diabetics, an applicant for a school bus driver's authorization must undergo a biennial physical examination by a licensed physician or surgeon, osteopathic physician or surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner. The applicant must submit annually to the applicant's employer the signed medical examiner's certificate (pursuant to Federal Motor Carrier Safety Administration regulations 49 CFR Sections 391.41 to 391.49), indicating, among other requirements, sufficient physical capacity to operate the bus effectively and to render assistance to the passengers in case of illness or injury, and freedom from any communicable disease. At the discretion of the chief administrator or designee of the employer or prospective employer, the chief administrator or designee shall evaluate the applicant's ability in operating a school bus, including all safety equipment, in providing assistance to passengers in evacuation of the school bus, and in performing other duties required of a school bus driver.

**281—43.16(285) Tests for tuberculosis.** Rescinded IAB 8/16/06, effective 9/20/06.

**281—43.17(285) Insulin-dependent diabetics.** A person who is an insulin-dependent diabetic may qualify to be a school bus driver if the person meets all qualifications of Iowa Code subsection 321.375(3). Such driver is subject to an annual physical examination by a qualified medical examiner as listed in rule 281—43.15(285).

**281—43.18(285) Authorization to be carried by driver.** Every school bus driver shall carry a copy of the driver's school bus driver's authorization at all times when the driver is acting in that capacity.

**281—43.19(285) Vision requirements.** Rescinded IAB 12/8/04, effective 1/12/05.

**281—43.20(285) Hearing requirements.** Rescinded IAB 12/8/04, effective 1/12/05.

**281—43.21(285) Experience, traffic law knowledge and driving record.** No driver applicant shall be employed or allowed to transport students until the board determines that the applicant has an acceptable driving record, demonstrates the ability to safely operate the vehicle(s) representative of the vehicle(s) required to be operated during employment and is knowledgeable of traffic laws and regulations pertaining to the operation of a school bus.

**281—43.22(321) Fee collection and distribution of funds.** The department of education, commencing with the biannual school bus inspections for the 2002-2003 school year and each year thereafter, shall assess a fee for each school bus or allowable alternative vehicle (pursuant to rule 761—911.7(321)) inspected by the department. The department shall present for payment a fee statement to the owner of each school bus or allowable alternative vehicle inspected.

The department of education shall submit an annual budget request for an amount equal to 100 percent of the total projected fees to be collected during the next fiscal year which shall be based on an amount equal to the number of school bus and allowable alternative vehicle inspections completed during the previous school year multiplied by the inspection fee authorized by statute.

One component of the annual budget shall be an annual "school bus driver and passenger safety education plan." The plan shall outline the projects and activities to be included during each year. These projects and activities may include, but not be limited to, curriculum development costs, printing and

distribution of safety literature and manuals, purchase of equipment used in conducting school bus safety education programs, and other expenditures deemed appropriate by the department of education.

**281—43.23(285) Application form.** The school bus driver and the board of education shall submit an application for the school bus driver's authorization annually, and upon a form prescribed by the department of education.

**281—43.24(321) Authorization denials and revocations.** A person who believes that a school bus driver who holds an authorization issued by the department of education or who seeks a school bus authorization has committed acts in violation of Iowa Code subsection 321.375(2) or rule 43.12(285) may file a complaint with the department against the driver or applicant. The department shall notify the driver or applicant that a complaint has been filed and shall provide the driver or applicant with a copy of the complaint. A hearing shall be set for the purpose of determining whether the bus driver's authorization shall be denied, suspended, or revoked, or whether the bus driver should receive a reprimand or warning. Hearing procedures in 281—Chapter 6 shall be applicable to such proceedings.

DIVISION VI  
PURCHASE OF BUSES

**281—43.25(285) Local board procedure.** The board of education shall proceed as follows in purchasing school buses:

**43.25(1)** Rescinded IAB 12/15/10, effective 1/19/11.

**43.25(2)** Notify dealers of intent to purchase school transportation equipment and request bids.

**43.25(3)** Reserve right to reject all bids.

**43.25(4)** Require all bids to be on comparable equipment which meets all state and federal requirements.

**43.25(5)** Hold an open meeting for dealers to present merits of their equipment.

**43.25(6)** Review bids, tabulate all bids, make a record of action taken.

**43.25(7)** Sign contracts or orders for purchase of school transportation equipment. The purchase agreement must provide that the dealer will deliver equipment which will pass initial state inspection at no further cost to the school and further provide that the school board shall withhold at least \$150 until the vehicle passes initial state inspection.

**43.25(8)** Notify the bureau of nutrition programs and school transportation of the state department of education of purchase and date of delivery so that arrangements can be made for the initial school bus inspection. No school bus can be put into service until it has passed a pre-use inspection conducted pursuant to Form TR-F-27B by the local board of education and the form has been provided to the bureau of nutrition programs and school transportation. The initial school bus inspection will be conducted at the earliest possible time convenient to the school and the department of education.

[ARC 9262B, IAB 12/15/10, effective 1/19/11]

**281—43.26(285) Financing.** The board of education may finance purchase of transportation equipment as follows:

**43.26(1)** The board may pay all of the cost of each bus from funds on hand in general fund.

**43.26(2)** Bonds may be voted to purchase equipment, and funds so derived shall be used for that purpose.

**281—43.27 to 43.29** Reserved.

DIVISION VII  
MISCELLANEOUS REQUIREMENTS

**281—43.30(285) Semiannual inspection.** To facilitate the semiannual inspection program, school and school district officials shall send their buses to inspection centers as scheduled. A sufficient number of drivers or other school personnel shall be available at the inspection to operate the equipment for the

inspectors. The fee for each vehicle inspected shall be \$20 effective July 1, 2005; \$25 effective July 1, 2007; and \$28 effective July 1, 2009.

**281—43.31(285) Maintenance record.** School officials shall cause the chassis of all buses and allowable alternative vehicles, whether publicly or privately owned, to be inspected annually and all necessary repairs made before the vehicle is put into service. The inspection and repairs shall be recorded on a form (TR-F-27A) prescribed by the department of education. The completed form (TR-F-27A) shall be signed by the mechanic and carried in the glove compartment of the bus.

**281—43.32(285) Drivers’ schools.** All school bus drivers shall attend classes or schools of instruction as approved by the department of education and provided for in Iowa Code subsection 321.376(2). The course of instruction for new drivers, to be successfully completed within the first six months of employment, shall also include the annual course of instruction for the school year in which the new driver is hired. All current school bus drivers shall attend the only annual course of instruction, unless the current driver misses a year of instruction. Upon missing a year of instruction, a current driver shall successfully complete the course of instruction for new drivers prior to receiving an authorization.

**281—43.33(285) Insurance.** The board of education shall carry insurance on all school-owned buses and see that insurance is carried by all contractors engaged in transporting pupils for the district in the coverages and limits as determined by the board of education.

**281—43.34(285) Contract—privately owned buses.** The board of education and a contractor who undertakes to transport school pupils for the board, in privately owned vehicles, shall sign a contract substantially similar to that prescribed by the department of education (Form TR-F-4-497). The contract shall contain the following provisions:

**43.34(1)** To furnish and operate at the contractor’s own expense a legally approved vehicle of transportation (or a legally approved chassis on which may be mounted a school bus body supplied and maintained by the board of education) to and from the . . . . . school each day beginning on the date set by the board over route as described, . . . . . transporting only children attending the school designated by the board of education.

**43.34(2)** To comply with all legal and established uniform standards of operation as required by statute or by legally constituted authorities.

**43.34(3)** To comply with all uniform standards, established for protection of health and safety for pupils transported.

**43.34(4)** To comply with all rules and regulations adopted by the board of education for the protection of the children, or to govern the conduct of driver of bus.

**43.34(5)** To keep bus in good mechanical condition and up to standards required by statutes or by legally constituted authorities.

**43.34(6)** To take school bus to official inspection when held by state authorities with no additional expense to party of second part.

**43.34(7)** To see that the bus is swept and the windows cleaned each day and that registration plates and all lights are cleaned before each trip. Further, that the bus is washed and the floor swept and scrubbed with a good disinfectant each week. In case of an epidemic the entire bus shall be washed with a disinfectant.

**43.34(8)** To use only drivers and substitute drivers who have been approved by the board of education and have received a school bus driver’s authorization.

**43.34(9)** To furnish the board of education an approved certificate of medical examination for each person who is approved by the board of education to drive the bus.

**43.34(10)** To attend a school of instruction for bus drivers as prescribed by the bureau of nutrition programs and school transportation of the department of education. (If the owner does not drive the bus, the regular approved driver of the bus shall attend.).

**43.34(11)** To carry insurance on bus and pupils in the coverages and limits as determined by the board of education. Copy of policy to be filed with superintendent of schools.

**43.34(12)** To make such reports as may be required by state department of education, area education agency board of education, and superintendent of schools.

**43.34(13)** That the school bus shall be used only for transporting regularly enrolled students to and from public school and to extracurricular activities approved and designated by the board of education and further to comply with all legal restrictions on use of bus.

**43.34(14)** To obtain, if possible, the registration numbers of all cars violating the school bus passing law, Iowa Code section 321.372 and file information for prosecution.

**43.34(15)** The board of education hereby reserves the right to change routing of the bus and, if additional mileage is required, it shall be at an extra cost not exceeding \$. . . . . per additional mile per month. If shortened. . . . .

**43.34(16)** Immoral conduct or the use of alcoholic beverages by the contractor or driver employed by the contractor shall result in appropriate sanctions as provided in Iowa Code section 321.375.

**43.34(17)** Contract may be terminated on 90-day notice by either party, Iowa Code section 285.5(4).

**43.34(18)** The contractor agrees that, if the contractor desires to terminate the contract, the school bus will be sold to the board of education at its request as provided in Iowa Code section 285.5(1). (This requirement does not apply to a passenger auto used as a school bus.)

[ARC 9262B, IAB 12/15/10, effective 1/19/11]

**281—43.35(285) Contract—district-owned buses.** The board of education and a private individual undertaking to transport school pupils for the board in school district-owned vehicles shall sign a contract substantially similar to that prescribed by the department of education (Form TR-F-5-497(revised)). The contract shall contain the following provisions:

**43.35(1)** To conform to all rules of the board of education in and for the district adopted for the protection of the children and to govern the conduct of the person in charge of the conveyance.

**43.35(2)** To make reports as may be required by the state department of education, area education agency, or superintendent of schools.

**43.35(3)** To conform to all standards for operation of the school buses as required by statute or by legally constituted authorities.

**43.35(4)** That the employee shall be entitled to benefits as outlined in the school board policy for the school district.

**43.35(5)** To attend a school of instruction for bus drivers as prescribed by the bureau of nutrition and school transportation of the department of education.

**43.35(6)** That the employer can terminate the contract and dismiss the employee for failure to conform to all laws of the state of Iowa and rules promulgated by the Iowa department of education applicable to drivers of school buses.

**43.35(7)** That this contract shall not be in force until the driver presents an official school bus driver’s authorization.

**281—43.36(285) Accident reports.** The superintendent of schools shall make a report to the bureau of nutrition and school transportation of the department of education on any accident involving any vehicle in use as a school bus. The driver of the bus shall cooperate with the superintendent in making the report. The report shall be made on the department of transportation Iowa Accident Report Form.

**281—43.37(285) Railroad crossings.** The driver of any school bus shall bring the bus to a complete stop at all railroad crossings, as required in Iowa Code section 321.343, regardless of whether or not there are any pupils in the bus, and regardless of whether or not there is an automatic signal at the crossing. After stopping, the driver shall open the entrance door, look and listen for approaching trains and shall not proceed to cross the tracks until it is safe to do so.

**281—43.38(285) Driver restrictions.**

**43.38(1)** The driver of a school bus shall not smoke on the bus or on any school property.

**43.38(2)** The driver shall not permit firearms to be carried in the bus.

**43.38(3)** The driver shall not fill the fuel tank while the motor is running or when there are passengers on the bus.

**43.38(4)** The driver shall ensure that aisles and exits are not blocked.

[ARC 9262B, IAB 12/15/10, effective 1/19/11]

**281—43.39(285) Civil defense projects.** Civil defense projects may be recognized by the board of directors of any school district as an authorized extracurricular activity under the following conditions:

**43.39(1)** Such activity may take the form of, but need not be restricted to:

- a. First-aid classes.
- b. Study and distribution of materials relating to community survival, fallout shelters, radiation detection, and other pertinent disaster measures.
- c. Exercises and field trips related to the above matters.
- d. Cooperation with local, state and national authorities, both civil and military, and interested organizations, in carrying out civil defense exercises and in planning and making preparations for passive defense in time of actual emergency.

**43.39(2)** The use of school buses for field trips and exercises, and the planned use of school buses in connection with actual emergency procedures to be carried on in cooperation with local, state or national authorities, civil or military, is hereby defined as properly incident to such authorized extracurricular activity.

**43.39(3)** All such projects, except an actual emergency operation where time is of the essence, shall have prior approval of the state department of education.

**43.39(4)** The bus shall be driven by an approved driver holding an appropriate driver's license and a regular school bus driver's authorization except that in actual emergency situations, where regular drivers are not available, certain other drivers, including students and teachers, may be used providing the following conditions are met. The driver shall:

- a. Be approved by the local board of education.
- b. Be at least 18 years of age, be physically and mentally competent, and not possess personal or moral habits which would be detrimental to the best interests of the safety and welfare of the children transported.

**43.39(5)** Rescinded IAB 12/8/04, effective 1/12/05.

**281—43.40(285) Pupil instruction.** At least twice during each school year, each pupil who is transported in a school vehicle shall be instructed in safe riding practices and participate in emergency evacuation drills.

**281—43.41(285) Trip inspections.** A pretrip inspection of each school bus shall be performed and recorded prior to each trip. A written report shall be submitted promptly to the superintendent of schools, transportation supervisor, school bus mechanic, or other person charged with the responsibility for the school transportation program, if any defects or deficiencies are discovered that may affect the safety of the vehicle's operation or result in its mechanical breakdown. A posttrip inspection of the interior of the school bus shall be performed after each trip.

**281—43.42(285) Loading and unloading areas.** Restricted loading and unloading areas shall be established for school buses at, or near schools.

**281—43.43(285) Communication equipment.** Each school bus shall have a two-way communications system or cellular telephone capable of emergency communication between the driver of the bus and the school's base of operations for school transportation.

DIVISION VIII  
COMMON CARRIERS

**281—43.44(285) Standards for common carriers.** These standards are intended to apply to any vehicle operated by a common carrier when used exclusively for student transportation to and from school.

**43.44(1) Vehicles.**

- a. The vehicles need not be painted yellow and black as required for conventional school buses.
- b. The vehicles shall, while transporting children to and from school, be equipped with temporary signs, located conspicuously on the front and back of the vehicle. The sign on the front shall have the words “School Bus” printed in black letters not less than six inches high, on a background of national school bus glossy yellow. The sign on the rear shall be at least ten square feet in size and shall be painted national school bus glossy yellow, and have the words “School Bus” printed in black letters not less than eight inches high. The yellow is to be in accordance with the colorimetric specification of Federal Standard No. 595a, Color 13432; the black matching Federal Standard 595a, Color 17038. Both the six-inch and eight-inch letters shall be Series “D” as specified in the Standard Alphabet—Federal Highway Administration, 1966.

- c. Rescinded, effective 8/11/82.

**43.44(2) Drivers.**

- a. The driver shall have an appropriate driver’s license issued by the Iowa department of transportation.
- b. The driver shall possess a school bus driver’s authorization issued by the Iowa department of education.
- c. The driver shall receive training in accordance with state requirements for school bus drivers.

**43.44(3) Seating.**

- a. Each passenger shall have a comfortable seat.
- b. Stoodees are prohibited.

**43.44(4) Loading and unloading procedures.**

- a. Vehicle shall pull close enough to curb to prevent another vehicle from passing on right side.
- b. If vehicle is not equipped with flashing warning lights or stop arm, or if use of this equipment is prohibited by law, the pupils, on unloading, shall be instructed to remain at the curb until bus has pulled away and it is safe for them to cross the street.

**43.44(5) Inspection of vehicles.**

- a. Drivers shall be required to perform daily pretrip inspections of their vehicles and to report promptly and in writing any defects or deficiencies discovered that may affect the safety of the vehicle’s operation or result in its mechanical breakdown in accordance with rule 43.41(285).
- b. Vehicles shall be inspected semiannually by personnel of the department of education in accordance with the provisions of Iowa Code section 285.8(4).

**43.44(6) Other requirements.**

- a. Local school officials shall provide the carrier with passenger conduct rules and the driver shall abide by the policies and procedures established by the local district.
- b. The carrier shall make a report to the bureau of nutrition and school transportation of the department of education on any accident involving property damage or personal injury while a vehicle is being used as a school bus. The report shall be made on the Iowa Accident Report Form.
- c. Student instruction for passenger safety shall be the responsibility of the local school district as specified in rule 43.40(285).

These rules are intended to implement Iowa Code chapter 285.

[Filed 6/2/61; amended 4/30/62, 7/12/62, 5/10/66, 5/10/72, 11/19/74, 6/24/75]

[Filed 6/21/77, Notice 2/9/77—published 7/13/77, effective 8/17/77]

[Filed 5/11/79, Notice 3/21/79—published 5/30/79, effective 7/4/79]

[Filed emergency 7/24/80—published 8/20/80, effective 7/25/80]

[Filed 6/16/82, Notice 4/28/82—published 7/7/82, effective 8/11/82]

[Filed 11/14/86, Notice 8/27/86—published 12/3/86, effective 1/7/87]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed 5/8/92, Notice 3/4/92—published 5/27/92, effective 7/1/92]

[Filed 3/20/98, Notice 2/11/98—published 4/8/98, effective 5/13/98]

[Filed 8/2/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]

[Filed 11/17/04, Notice 10/13/04—published 12/8/04, effective 1/12/05]

[Filed 7/27/06, Notice 4/26/06—published 8/16/06, effective 9/20/06]

[Filed ARC 9262B (Notice ARC 9013B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

CHAPTER 44  
SCHOOL BUSES

[Prior to 8/10/88, see Public Instruction Department[670] Ch 23]

**281—44.1(285) Requirements for manufacturers.** In order to protect both the boards of education and manufacturers of school transportation vehicles and equipment from misunderstanding and confusion, all manufacturers shall provide equipment meeting all Iowa vehicle construction requirements described in this chapter as well as all applicable federal motor vehicle safety standards, which include but are not limited to the following:

- 101—Control location, identification, and illumination.
- 102—Transmission shift lever sequence, starter interlock, and transmission braking effect.
- 103—Windshield defrosting and defogging systems.
- 104—Windshield wiping and washing systems.
- 105—Hydraulic braking systems.
- 106—Brake hoses.
- 107—Reflecting surfaces.
- 108—Lamps, reflective devices, and associated equipment.
- 109—New pneumatic tires.
- 110—Tire selection and rims.
- 111—Rearview mirrors.
- 113—Hood latch systems.
- 116—Motor vehicle brake fluids.
- 119—New pneumatic tires for vehicles other than passenger cars.
- 120—Tire selection and rims for motor vehicles other than passenger cars.
- 121—Air brake systems.
- 124—Accelerator control systems.
- 131—School bus pedestrian safety devices.
- 205—Glazing materials.
- 206—Door locks and door retention components.
- 207—Seating systems.
- 208—Occupant crash protection.
- 209—Seat belt assemblies.
- 210—Seat belt assembly anchorages.
- 217—Bus window retention and release.
- 219—Windshield zone intrusion for vehicles with a GVWR of 10,000 pounds or less.
- 220—School bus rollover protection.
- 221—School bus body joint strength.
- 222—School bus passenger seating and crash protection.
- 301—Fuel system integrity.
- 302—Flammability of interior materials.
- 303—Fuel system integrity of compressed natural gas vehicles.
- 304—Compressed natural gas fuel container integrity.

Refer to the Appendix for additional information on certain federal motor vehicle safety standards (FMVSS) requirements.

**281—44.2(285) School bus—type classifications.** A bus owned, leased, contracted to or operated by a school or school district and regularly used to transport students to and from school or school-related activities, but not including a charter bus or transit bus, meets all applicable FMVSS, and is readily identified by alternately flashing lights, national school bus yellow paint, and the legend “School Bus.”

**44.2(1) Type A.** A Type A school bus is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver’s door. This definition includes two classifications: Type

A-1, with a gross vehicle weight rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

**44.2(2) Type B.** A Type B school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less; and Type B-2, with a GVWR greater than 10,000 pounds.

**44.2(3) Type C.** A Type C school bus, also known as a conventional school bus, is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels. This type of school bus also includes the cutaway truck chassis or truck chassis with cab with or without a left side door and with a GVWR greater than 21,500 pounds.

**44.2(4) Type D.** A Type D school bus, also known as a rear or front engine transit-style school bus, is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

**44.2(5) Specially equipped.** A specially equipped school bus is a school bus designed, equipped, or modified to accommodate students with special needs.

**44.2(6) Multifunction school activity bus (MFSAB).** A multifunction school activity bus is a school bus whose purposes do not include transporting students to and from home or school bus stops as defined in 49 CFR 571.3. MFSABs meet all FMVSS for school buses except the traffic control requirements (alternately flashing signal and stop arm). MFSABs are not allowed for use by schools or school districts in the state of Iowa.

### **281—44.3(285) School bus chassis.**

#### **44.3(1) Air cleaner.**

*a.* The engine air intake cleaning system shall be furnished and properly installed by the chassis manufacturer to meet engine manufacturer's specifications.

*b.* The intake air system for diesel engines shall have an air cleaner restriction indicator properly installed by the chassis manufacturer to meet engine specifications.

#### **44.3(2) Alternator.**

*a.* All alternators shall be a minimum of 130 amperes while maintaining a minimum of 50 amperes while at the manufacturer's suggested idle speed.

*b.* All Type C and Type D buses shall be equipped with a heavy-duty truck or bus-type alternator meeting SAE J180 or incorporating a pad-type mounting.

**44.3(3) Axles.** The front and rear axle and suspension systems shall have gross axle weight rating (GAWR) at ground commensurate with the respective front and rear weight loads that will be imposed by the bus.

**44.3(4) Backup warning alarm.** A backup warning alarm shall be installed on every school bus. Responsibility for installation of the alarm shall rest with the school bus body manufacturer unless other arrangements have been made between the body and chassis manufacturers. See also subrule 44.4(2).

#### **44.3(5) Battery system.**

*a.* A 12-volt battery system tested at 0 degrees Fahrenheit shall be provided which meets or exceeds the following capacity ratings:

(1) Gasoline engines (greater than 10,000 pounds GVWR): 150 minutes reserve and 500 cold cranking ampere capacity.

(2) Gasoline engines (10,000 pounds GVWR or less): 125 minutes reserve and 450 cold cranking ampere capacity.

(3) Diesel engines (all): 200 minutes reserve and 1,000 cold cranking ampere capacity, or a cold cranking ampere capacity not less than the engine manufacturer's minimum requirements, whichever is greater.

*b.* Since all batteries are to be secured in a sliding tray in the body, chassis manufacturers shall temporarily mount the battery on the chassis frame. Type A or B van conversion or cutaway front-section chassis may have the battery located in the forward engine compartment beneath the hood or temporarily mounted for final mounting in the body skirt by the body manufacturer. In these cases, the final location of the battery and the appropriate cable lengths shall be according to the SBMTC School Bus Design Objectives, August 1996 edition, or as mutually agreed upon by the chassis and body manufacturers. In

all cases, however, the battery cable provided with the chassis shall have sufficient length to allow some slack.

**44.3(6) Brakes.**

*a. Brakes, all, general requirements.*

(1) The chassis brake system shall conform to the provisions of FMVSS No. 105, Hydraulic and Electric Brake Systems, No.106, Brake Hoses, and No. 121, Air Brake Systems, as applicable.

(2) The antilock brake system (ABS), provided in accordance with FMVSS No. 105 or No. 121, shall provide wheel speed sensors for each front wheel and for each wheel on at least one rear axle. The system shall provide antilock braking performance for each wheel equipped with sensors (Four Channel System).

(3) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis component(s).

(4) The brake lines, booster-assist lines, and control cables shall be protected from excessive heat, vibration and corrosion and installed in a manner which prevents chafing.

(5) The parking brake system for either air or hydraulic service brake systems may be of a power-assisted design. The power parking brake actuator should be a device located on the instrument panel within reach of a seated 5th percentile female driver. As an option, the parking brake may be set by placing the automatic transmission shift control mechanism in the "park" position.

(6) The power-operated parking brake system may be interlocked to the engine key switch. Once the parking brake has been set and the ignition switch turned to the "off" position, the parking brake cannot be released until the key switch is turned back to the "on" position.

*b. Hydraulic brakes, general requirements.* Buses using a hydraulic-assist brake shall be equipped with audible and visible warning signals that provide a continuous warning to the driver indicating a loss of fluid flow from the primary source or a failure of the backup pump system.

*c. Air brakes, general requirements.*

(1) The air pressure supply system shall include a desiccant-type air dryer installed according to the manufacturer's recommendations. The air pressure storage tank system may incorporate an automatic drain valve.

(2) The chassis manufacturer shall provide an accessory outlet for air-operated systems installed by the body manufacturer. This outlet shall include a pressure protection valve to prevent loss of air pressure in the service brake reservoir.

(3) For air brake systems, an air pressure gauge capable of complying with commercial driver's license (CDL) pretrip inspection requirements shall be provided in the instrument panel.

(4) All air brake-equipped buses may be equipped with a service brake interlock. If the bus is equipped with a service brake interlock, the parking brake cannot be released until the brake pedal is depressed.

(5) Air brake systems shall include a system for anticomponding of the service brakes and parking brakes.

(6) Air brakes shall have a warning device that is both visible and audible and that provides warning to the driver whenever the air pressure falls below the level where warnings are required under FMVSS No. 121.

*d. Brakes, all, specific requirements.*

(1) The braking system shall include the service brake, an emergency brake that is part of the service brake system and controlled by the service brake pedal, and a parking brake meeting FMVSS at date of manufacture.

(2) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals readily audible and visible to the driver. The signal shall give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum available in the system for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver the air pressure in psi or the inches of mercury available for the operation of the brakes.

(3) Buses using a hydraulic-assist brake system shall be equipped with warning signals readily audible and visible to the driver. The warning signal shall provide continuous warning in the event of a loss of fluid flow from primary source and in the event of discontinuity in that portion of the vehicle electrical system that supplies power to the backup system.

(4) Brake system reservoirs.

1. Every brake system which employs air or vacuum shall include a reservoir of the following capacity, where applicable, for brake operation: Vacuum-assist brake systems shall have a reservoir used exclusively for brakes that shall adequately ensure a full-stroke application so that loss in vacuum shall not exceed 30 percent with the engine off. Brake systems on gas-powered engines shall include suitable and convenient connections for the installation of a separate vacuum reservoir.

2. Any brake system with a dry reservoir shall be equipped with a check valve or equivalent device to ensure that, in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

3. Connection for auxiliary accessory reservoir. The brake system shall include a suitable and convenient connection for installation of an auxiliary air or vacuum reservoir by the body manufacturer.

(5) An air brake system is required on every chassis meeting one or more of the following:

1. Wheelbase equal to or greater than 274 inches.

2. Designed seating capacity rating greater than 66 passengers. Designed seating capacity, also known as manufacturer's seating capacity, is the actual or theoretical passenger capacity of the vehicle if it were constructed with the maximum number of seating positions.

(6) An air brake system shall comply with the following system and component designs:

1. The system cannot be of wedge design.

2. The system shall include an air dryer system having design features equal to or exceeding the Bendix Westinghouse Model AD9. The system shall be self-purging and capable of removing oil, dirt, and moisture. The dryer system shall also be equipped with a heater to prevent the freezing of moisture within the system. All plumbing from air compressor to input of air dryer or after-cooler shall provide soft flow bends not producing sumps in the air compressor line having direct entry into the dryer. An automatic moisture ejector or "spitter valve" does not meet the above requirement.

3. Automatic slack adjusters are required to be installed at all wheel positions.

4. The air compressor shall produce a minimum output of 12.0 cubic feet per minute (CFM).

(7) Vehicles with 10,000 pounds GVWR or less shall be equipped with a hydraulic, dual-braking system of manufacturer's standard, with power assist.

(8) Antilock brake systems for either air or hydraulic brakes shall include control of all axles in compliance with FMVSS 105 or 121.

**44.3(7) Bumper, front.**

a. All school buses shall be equipped with a front bumper. The chassis manufacturer shall furnish the front bumper on all chassis unless there is a specific arrangement between the chassis manufacturer and body manufacturer that the body manufacturer will furnish the front bumper.

b. The bumper shall be not less than 8 inches wide (high), except on Type D buses where the front bumper shall be a minimum of 9 inches wide (high).

c. The front bumper shall be of pressed steel channel or equivalent material of sufficient structural and mounting strength to ensure that the front of the vehicle may be lifted by means of an air bumper-type jack, without permanent deformation of the bumper, bracketry, or chassis frame rail(s). The front bumper, except breakaway bumper ends, shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to the bumper, chassis, or body.

d. On Type A vehicles less than 14,500 pounds GVWR, the front bumper may be of manufacturer's standard construction.

e. The bumper shall extend beyond the forward-most part of the body, grille, hood, and fenders (flush-mounted bumpers are not acceptable) and shall extend to the outer edges of the fenders at the bumper's top line. The bumper shall be curved, beveled, or have other design features at each end to prevent snagging or hooking and shall be bolted to the chassis frame so it can be conveniently removed for maintenance.

*f.* Tow eyes or hooks are required on chassis of 14,501 pounds GVWR or greater. Two tow eyes or hooks shall be installed by the chassis manufacturer so as not to project beyond the front bumper. Tow eyes or hooks shall be attached to the chassis frame in accordance with the chassis manufacturer's standards.

*g.* The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow eyes. For the purpose of meeting this standard, the bus shall be empty and positioned on a level, hard surface and both tow eyes shall share the load equally.

**44.3(8) *Bumper, rear.*** A rear bumper of manufacturer's standard construction shall be provided by the chassis manufacturer on all Type A-2 chassis unless there is a specific arrangement between the chassis manufacturer and body manufacturer that the body manufacturer will furnish the rear bumper. The rear bumper shall be painted glossy black.

**44.3(9) *Certification, chassis.*** The chassis manufacturer will, upon request, certify to the state agency having pupil transportation jurisdiction that the product(s) meets minimum standards on items not covered by certification issued under requirements of the National Traffic and Motor Vehicle Safety Act.

**44.3(10) *Clutch.***

*a.* Clutch torque capacity shall be equal to or greater than the engine torque output.

*b.* A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed.

**44.3(11) *Color.***

*a.* Chassis and front bumper shall be black. Body cowl, hood, and fenders shall be national school bus yellow. The flat top surface of the hood may be nonreflective national school bus yellow; black is not acceptable.

*b.* Wheels and rims shall be gray, black, or national school bus yellow.

*c.* The grille must be gray, black, or national school bus yellow. Chrome is not acceptable.

**44.3(12) *Daytime running lights (DRL).*** Rescinded IAB 10/11/06, effective 11/15/06.

**44.3(13) *Defroster.*** See subrules 44.3(22) and 44.4(18).

**44.3(14) *Drive shaft.*** The drive shaft shall be protected by a metal guard or guards around the circumference of the drive shaft to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

**44.3(15) *Electrical system.*** See subrule 44.3(41).

**44.3(16) *Exhaust system.***

*a.* The exhaust pipe, muffler and tailpipe shall be outside the bus body compartment and attached to the chassis so as not to damage any other chassis component.

*b.* The tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel tubing.

*c.* Chassis manufacturers shall furnish an exhaust system with tailpipe of sufficient length to extend at least 5 inches beyond the end of the chassis frame to the vertical line of the rear end of the body, but not beyond the rear bumper. The exhaust may exit at the left side or rear of the bus body provided that the exit is no more than 18 inches forward of the front edge of the rear wheelhouse opening. If designed to exit to the left side of the bus, the tailpipe shall extend at least 48.5 inches (51.5 inches if the body is to be 102 inches wide) outboard from the chassis centerline. Final positioning shall result in the exhaust system's extending to, but not beyond, the body limits on the left side of the bus.

*d.* On Type A-1 chassis greater than 15,000 pounds GVWR, Type C and Type D vehicles, the tailpipe shall not exit beneath a fuel fill or emergency door exit.

*e.* On Type A-2 and Type B chassis of 15,000 pounds GVWR or less, the tailpipe may be furnished with the manufacturer's standard tailpipe configuration.

*f.* The exhaust system on a chassis shall be adequately insulated from the fuel system.

*g.* The muffler shall be constructed of corrosion-resistant material.

*h.* The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

*i.* The tailpipe shall not exit beneath the fuel fill, lift door or emergency door.

**44.3(17) Fenders, front and hood.** This subrule does not apply to Type A-1, A-2 or D vehicles.

*a.* The total spread of outer edges of front fenders, measured at the fender line, shall exceed the total spread of front tires when the front wheels are in the straight-ahead position.

*b.* Front fenders shall be properly braced and free from any body attachment.

*c.* Chassis sheet metal shall not extend beyond the rear face of the cowl.

*d.* Front fenders and hood may be of manufacturer's standard material and construction.

*e.* The hood shall not require more than 20 pounds of force to open and shall include design features to secure the hood in an open position.

**44.3(18) Frame.**

*a.* The frame or equivalent shall have design and strength characteristics corresponding at least to standard practice for trucks of the same general load characteristics which are used for highway service.

*b.* Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification.

*c.* Extensions of frame lengths are permissible only when alterations are behind the rear hanger of the rear spring or in front of the front hanger of front spring and shall not be for the purpose of extending the wheelbase.

*d.* Holes in top or bottom flanges or side units of the frame and welding to the frame shall not be permitted except as provided or accepted by the chassis manufacturer.

*e.* Frame lengths shall be provided in accordance with SBMTC School Bus Design Objectives, August 1996 edition, except where body and chassis manufacturers are the same or have established mutual design criteria for the vehicle.

**44.3(19) Fuels, alternative.** An alternative fuel is defined as propane (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, methanol, ethanol, clean diesel, biodiesel, soydiesel, reformulated gasoline, or any type of hybrid system. Vehicles that operate on an alternative fuel shall meet the following requirements:

*a.* Chassis shall meet all standards of this rule.

*b.* Chassis shall meet all applicable FMVSS standards including, but not limited to, the fuel system integrity standards of FMVSS 301 or FMVSS 303 and FMVSS 304.

*c.* Original equipment manufacturers (OEMs) and conversion systems using compressed natural gas (CNG) shall comply with NFPA Standard 52 "Compressed Natural Gas Vehicular Fuel Systems" in effect at the time of installation. Fuel systems using liquefied petroleum gas (LPG) shall comply with the NFPA Standard 58 "Liquefied Petroleum Gases Engine Fuel Systems" in effect at the time of installation.

*d.* All alternative fuel buses shall travel a loaded range of not less than 200 miles, except those powered by electricity which shall travel not less than 80 miles.

*e.* Liquefied natural gas (LNG)-powered buses shall comply with NFPA Standard 57, "Liquefied Natural Gas Vehicular-Fueled Systems" and be equipped with an interior/exterior gas detection system. All natural gas-powered buses shall be equipped with a fire detection and suppression system.

*f.* All materials and assemblies used to transfer or store alternative fuels shall be installed outside the passenger/driver compartment.

*g.* The total weight shall not exceed the GVWR when loaded to rated capacity.

*h.* The manufacturer supplying the alternative fuel equipment must provide the owner and operator with adequate training and certification in fueling procedures, scheduled maintenance, troubleshooting, and repair of alternative fuel equipment.

*i.* All fueling equipment shall be designed specifically for fueling motor vehicles and shall be certified by the manufacturer as meeting all applicable federal, state and industry standards.

*j.* All on-board fuel supply containers shall meet all appropriate requirements of the ASME code, the DOT regulations, or applicable FMVSS and NFPA standards.

*k.* All fuel supply containers shall be securely mounted to withstand a static force of eight times their weight in any direction.

*l.* All safety devices that may discharge to the atmosphere shall be vented to the outside of the vehicle. The discharge line from the safety relief valve on all school buses shall be located in a manner

appropriate to the characteristics of the alternative fuel. Discharge lines shall not pass through the passenger compartment. Discharge lines shall be kept clear with flapper-valve or other device which will allow low-pressure discharge but prevent clogging by foreign matter or insects.

*m.* A positive, quick-acting ( $\frac{1}{4}$  turn), shut-off control valve shall be installed in the gaseous fuel supply lines as close to the fuel supply containers as possible. The controls for this valve shall be placed in a location easily operable from the exterior of the vehicle. The location of the valve control shall be clearly marked on the exterior surface of the bus.

*n.* A grounding system shall be required for grounding of the fuel system during maintenance-related venting.

*o.* Automatic engine shut-down systems are not permissible.

*p.* Storage batteries for hybrid power systems shall be protected from crash impacts and shall be enclosed in a nonconductive, acid-resistant compartment. This compartment must be well-ventilated to preclude the possibility of hydrogen gas buildup.

**44.3(20) Fuel system.**

*a.* All fuel tanks, including auxiliary fuel tanks, fuel tank filler pipes, and fuel tank connections shall conform to all applicable FMVSS at the date of manufacture and shall be installed in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

*b.* On all Type B, C, and D vehicles, the fuel tank shall comply with FMVSS 301, Fuel System Integrity, and with Motor Carrier Safety Regulations, Section 393.67, paragraphs (c) through (f), with reference to material and method of construction, leak testing and certification. On Type A-1 and A-2 vehicles, the fuel tank may be of the manufacturer's standard construction.

*c.* On chassis with a wheelbase greater than 170 inches, at least one fuel tank of 60-gallon capacity shall be provided and installed by the manufacturer. Chassis with a wheelbase of 170 inches or less shall be equipped with at least one fuel tank of 30-gallon minimum capacity, as provided and installed by the manufacturer.

*d.* Fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle by the manufacturer. Tanks shall be mounted directly to the chassis frame, filled, and vented outside the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

*e.* Fuel filtration shall be accomplished by means of the following:

(1) Gasoline-powered systems—one in-line fuel filter shall be installed between the fuel tank and the engine.

(2) Diesel-powered systems—one engine-mounted fuel filter with water/fuel separator shall be supplied and installed by the engine manufacturer.

*f.* The actual draw capacity of each fuel tank shall be 83 percent of the tank capacity.

*g.* Unless specific agreement has been made between the body and chassis manufacturers, fuel tanks and filler spouts shall not be located in spaces restricted by SBMTC School Bus Design Objectives, 1996 edition.

**44.3(21) Governor.** An electronic engine speed limiter shall be provided and set to limit engine speed, not to exceed the maximum revolutions per minute as recommended by the engine manufacturer.

**44.3(22) Heating system.**

*a.* The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The openings shall be suitable for attaching  $\frac{3}{4}$ -inch or metric equivalent pipe thread/hose connector.

*b.* The engine shall be capable of supplying water having a temperature of at least 170 degrees Fahrenheit at a flow rate of 50 pounds per minute at the return end of 30 feet of one-inch inside-diameter automotive hot water heater hose. Engine temperature performance shall be measured in accordance with the School Bus Manufacturer's Technical Council Standard Number 001—Procedures for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment, July 1996.

*c.* For Type A-2 vehicles with GVWR of 10,000 pounds or less, the chassis manufacturer shall provide a fresh-air front heater and defroster of recirculating hot water type. See also subrules 44.4(12) and 44.4(18).

**44.3(23) Headlamps.**

a. Buses shall be equipped with a minimum of two headlamps meeting FMVSS 108 with circuit protection.

b. The headlamp switch shall be of adequate ampere capacity to carry the load of the clearance and identification lamps in addition to the headlamps and tail lamps since these will be activated by the same switch.

c. There shall be a manually operated switch for selection of high- or low-beam distribution of the headlamps.

d. The headlight system must be wired separately from the body-controlled solenoid.

e. A daytime running lamp (DRL) system shall be provided.

**44.3(24) Horn.** Chassis shall be equipped with a horn of standard make capable of producing a complex sound in a band of audio frequencies between approximately 250 and 2,000 cycles per second and tested in accordance with Society of Automotive Engineers Standard J377.

**44.3(25) Instruments and instrument panel.**

a. Chassis shall be equipped with an instrument panel having, as a minimum, the following instrumentation: (Lights in lieu of gauges are not acceptable except as noted.)

(1) Speedometer.

(2) Odometer with accrued mileage including tenths of miles unless tenths of miles are registered on a trip odometer.

(3) Voltmeter with graduated scale.

(4) Oil pressure gauge.

(5) Water temperature gauge.

(6) Fuel gauge.

(7) Upper-beam headlamp indicator.

(8) Air pressure gauge, where air brakes are used. A light indicator in lieu of a gauge is permitted on vehicles equipped with hydraulic-over-hydraulic brake system.

(9) Turn signal indicator.

(10) Glow-plug indicator light, where appropriate.

(11) Tachometer required on vehicles 14,500 pounds GVWR and greater.

b. Gauges shall be displayed as single-gauge installations or as gauges contained in a multifunction instrument display. The multifunction instrument display shall comply, as a minimum, with the following design criteria:

(1) The driver must be able to manually select any displayable function of the gauge on a multifunction display whenever desired.

(2) Whenever an out-of-limits condition occurs, which would be displayed on one or more functions of a multifunction gauge, the multifunction gauge controller should automatically display this condition on the instrument cluster. This should be in the form of an illuminated warning light as well as having the multifunction gauge automatically display the out-of-limits indications. Should two or more functions displayed on the multifunction gauge go out of limits simultaneously, the multifunction gauge should automatically sequence between those functions continuously until the condition(s) is corrected.

(3) The use of a multifunction instrument display does not relieve the requirement of audible warning devices as required in this subrule.

c. All instruments shall be easily accessible for maintenance and repair.

d. Instruments and gauges shall be mounted on the instrument panel so each is clearly visible to the driver in a normal seated position in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

e. The instrument panel shall have rheostatically controlled lamps of sufficient candlepower to illuminate all instruments, gauges, and the shift selector indicator for automatic transmission.

**44.3(26) Oil filter.** An oil filter with a replaceable element or cartridge shall be of manufacturer's recommended capacity and shall be connected by flexible oil lines if it is not of built-in or engine-mounted design.

**44.3(27) Openings.** All openings in the floorboard or fire wall between the chassis and passenger compartment, such as for gearshift selector and parking brake lever, shall be sealed.

**44.3(28) Passenger load.**

*a.* Actual gross vehicle weight (GVW) is the sum of the chassis weight, plus the body weight, plus the driver's weight, plus the total seated pupil weight.

(1) For purposes of calculation, the driver's weight is 150 pounds.

(2) For purposes of calculation, the pupil weight is 120 pounds per pupil.

*b.* Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's GVWR for the chassis, nor shall the actual weight carried on any axle exceed the chassis manufacturer's gross axle weight rating.

**44.3(29) Road speed control.** When it is desired to accurately control vehicle maximum speed, a road speed control device may be utilized. A vehicle cruise control may also be utilized.

**44.3(30) Shock absorbers.** Buses shall be equipped with double-action shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

**44.3(31) Suspensions.**

*a.* The capacity of springs or suspension assemblies shall be commensurate with the chassis manufacturer's GVWR rating.

*b.* Steel leaf rear springs shall be a progressive rate or multistage design. Front leaf springs shall have a stationary eye at one end and shall be protected by a wrapped leaf in addition to the main leaf. Parabolic or taper-leaf springs are acceptable.

*c.* Air suspension systems are acceptable. Air bags, hoses, hose routing, and all related hardware shall conform to the chassis manufacturer's recommendations.

**44.3(32) Steering gear.**

*a.* The steering gear shall be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.

*b.* If external adjustments are required, the steering mechanism shall be accessible.

*c.* No changes shall be made in the steering apparatus including addition of spinners or knobs which are not approved by the chassis manufacturer.

*d.* There shall be a clearance of at least 2 inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.

*e.* Power steering is required and shall be of the integral type with integral valves.

*f.* The steering system shall be designed to provide a means for lubrication of all wear points, if wear points are not permanently lubricated.

*g.* Tilting and telescopic steering wheels are acceptable.

**44.3(33) Sun shield.** See subrule 44.4(45).

**44.3(34) Throttle.**

*a.* The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.

*b.* A driver-operated, mechanical or electronic variable-speed hand throttle, or a fast idle switch shall be provided on all Type C and D vehicles.

*c.* OEM adjustable pedals are acceptable as an option.

**44.3(35) Tires and rims.**

*a.* Tires and rims of the proper size and tires with a load rating commensurate with the chassis manufacturer's gross vehicle weight rating shall be provided.

*b.* Tires shall be of tubeless, steel-belted, radial (standard or low-profile) construction.

*c.* "Bud" type, hub-piloted steel rims are required. Multipiece and "Dayton" rims are prohibited.

*d.* Dual tires shall be provided on all vehicles listed in rule 281—44.2(285).

*e.* All tires on a vehicle shall be of the same size, and the load range of the tires shall meet or exceed the GVWR as required by FMVSS 120.

*f.* Spare tires are not required; however, if specified, the spare tire shall be located outside the passenger compartment. The spare tire may not be attached to any part of the rear portion of the body

including the emergency door, bumper or roof. If a tire carrier is required, it shall be suitably mounted in an accessible location outside the passenger compartment.

g. Recapped tires are permissible as replacements on equipment now in operation for use on rear wheels only, providing tires are guaranteed by the seller. Recapped tires are not permissible where single rear wheels are used.

h. Tires, when measured on any two or more adjacent tread grooves, shall have a tread groove pattern depth of at least  $\frac{4}{32}$  of an inch on the front wheels and  $\frac{2}{32}$  of an inch on the rear wheels. No measurement shall be made where tire bars, humps, or fillets are located. On Type A-1 and Type A-2 buses with single front and rear wheels, the tread groove pattern depth shall be at least  $\frac{4}{32}$  of an inch. Where specific measurement points are provided by the tire manufacturer, they shall be utilized in determining tires approved for service. This requirement also applies to buses now in service.

i. Tire pressure equalizing systems for dual rear wheels are acceptable.

j. Traction-assisting devices including hopper-sanders or automatic traction chains may be installed.

**44.3(36) Tow hooks.** See subrule 44.3(7).

**44.3(37) Transmission.**

a. Automatic transmissions shall provide for not less than three forward speeds and one reverse speed. The shift lever, if applicable, shall provide a detent between each gear position when the gear selector quadrant and shift lever are not steering column-mounted.

b. An electronic control or similar device shall be installed to ensure that the automatic transmission cannot accidentally be moved out of the neutral or park gear position.

c. In manual transmissions, second gear and higher shall be synchronized except when incompatible with engine power. A minimum of three forward speeds and one reverse speed shall be provided.

**44.3(38) Turning radius.**

a. A chassis with a wheelbase of 264 inches or less shall have a right and left turning radius of not more than  $42\frac{1}{2}$  feet, curb-to-curb measurement.

b. A chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than  $44\frac{1}{2}$  feet, curb-to-curb measurement.

**44.3(39) Undercoating.** Chassis manufacturers or their agents shall coat the undersides of steel or metallic-constructed front fenders with a rustproofing compound for which compound manufacturers have issued notarized certification of compliance to the chassis builder that the compound meets or exceeds all performance and qualitative requirements of Paragraph 3.4 of Federal Specification TT-C-520B, using modified tests.

**44.3(40) Windshield washer/wiper system.**

a. On Type A-1 vehicles, wet-arm-type windshield wipers and washer system shall be provided by the chassis manufacturer. On Type A-2 vehicles, the windshield wiper/washer system shall be of the manufacturer's standards.

b. A two-speed or variable speed windshield wiping system, with an intermittent feature, shall be provided and shall be operated by a single switch.

c. The wipers shall meet the requirements of FMVSS No. 104.

d. Wiper control(s) shall be located within easy reach of the driver and shall be designed to move the blades from the driver's direct view when the wiper control is in the "off" position.

e. Wiper blades and arms shall be heavy duty and of manufacturer's standard length for the vehicle.

**44.3(41) Wiring.**

a. All wiring shall conform to current, applicable SAE-recommended practices.

b. All wiring shall use a standard color or number coding system or a combination of color and number. Each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

c. The chassis manufacturer of an incomplete vehicle shall install a readily accessible terminal strip or plug on the body side of the cowl, or in an accessible location in the engine compartment of vehicles designed without a cowl, that shall contain the following terminals for the body connections:

(1) Main 100-amp body circuit.

- (2) Tail lamps.
- (3) Right turn signal.
- (4) Left turn signal.
- (5) Stop lamps.
- (6) Backup lamps.
- (7) Instrument panel lights (rheostat controlled by headlamp switch).

*d.* Circuits.

(1) An appropriate identifying diagram (coded by color or number or both) for electrical circuits shall be provided to the body manufacturer for distribution to the end user.

(2) The headlight system must be wired separately from the body-controlled solenoid.

[ARC 9263B, IAB 12/15/10, effective 1/19/11]

## **281—44.4(285) School bus body.**

### **44.4(1) Aisle.**

*a.* All emergency doors shall be accessible by a 12-inch minimum aisle. Aisles shall be unobstructed at all times by any type of barrier, seat, wheelchair or tiedown, unless a flip seat is installed and occupied. The track of a track seating system is exempt from this requirement. A flip seat in the unoccupied (up) position shall not obstruct the 12-inch minimum aisle to any side emergency door.

*b.* The seat backs shall be slanted sufficiently to give aisle clearance of 15 inches at the top of the seat backs.

**44.4(2) Backup warning alarm.** An automatic audible alarm shall be installed behind the rear axle and shall comply with the published Backup Alarm Standards (SAE J994B), providing a minimum of 112 dBA. A variable volume feature is not allowed.

### **44.4(3) Battery compartment.**

*a.* Battery(ies) shall be furnished by the chassis manufacturer unless the body manufacturer agrees to provide battery(ies).

*b.* Battery(ies) shall be mounted in the body skirt of the vehicle and shall be accessible for convenient servicing from outside the bus. When the battery is mounted as described in 281—44.3(285), the body manufacturer shall securely attach the battery(ies) on a slide-out or swing-out tray with a safety stop to prevent the battery(ies) from dropping to the ground at the outermost extremity of tray travel.

*c.* The battery compartment shall have minimum dimensions of 25 inches wide, 14 inches deep, and 10 inches high.

*d.* The battery compartment door or cover shall be hinged at the top, bottom or forward side of the door. When hinged at the top, a fastening device shall be provided which will secure the door in an open position. The door or cover over the compartment opening shall completely cover and, as completely as practical, seal the opening and shall be secured by an adequate and conveniently operated latch or other type fastener to prevent free leakage of the battery contents into the passenger compartment should the vehicle overturn. Battery cables installed by the body manufacturer shall meet chassis manufacturer and SAE requirements. Battery cables shall be of sufficient length to allow the battery tray to fully extend. In Type A buses, if batteries cannot be installed under the hood, a battery compartment is required.

*e.* The top surface area of the inside of the battery compartment (the area likely to come into contact with battery electrical terminals as the result of a blow to, and upward collapse of, the bottom of the battery box in the event of an accident or other event) shall be covered with a rubber matting or other impact-resistant nonconductive material. The matting shall be a minimum of 1/8-inch thick and cover the entire top inside surface of the battery box. The matting shall be securely installed to maintain its position at all times.

*f.* The word “BATTERY” in 2-inch black letters shall be placed on the door covering the battery opening.

**44.4(4) Body sizes.** Type A vehicles may be purchased with manufacturer’s recommended seating capacities when the chassis is manufactured with rear dual tires.

**44.4(5) Bumper, front.**

a. On a Type D school bus, if the chassis manufacturer does not provide a bumper, it shall be provided by the body manufacturer. The bumper will conform to the standards of 281—44.3(285).

b. An optional energy-absorbing front bumper may be used, provided its design incorporates a self-restoring, energy-absorbing system of sufficient strength to:

(1) Push another vehicle of similar GVWR without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

- 7.5 mph fixed-barrier impact (FMVSS cart and barrier test).
- 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
- 20.0 mph into parked passenger car (Type B, C, and D buses of 18,000 lb GVWR or more).

(3) The manufacturer of the energy-absorbing system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

**44.4(6) Bumper, rear.**

a. The rear bumper shall be pressed steel channel or equivalent material, at least 3/16-inch thick, and shall be a minimum of 8 inches wide (high) on Type A-2 vehicles and a minimum of 9½ inches wide (high) on Type A-1, B, C and D buses and shall be of sufficient strength to permit being pushed by another vehicle without permanent distortion. Type A-2 vehicles with an overall body width of 80 inches or less may be equipped with the manufacturer's standard rear bumper.

b. The rear bumper shall be wrapped around the back corners of the bus. It shall extend forward at least 12 inches, measured from the rear-most point of the body at the floor line, and shall be flush-mounted to the body side or protected with an end panel.

c. The rear bumper shall be attached to the chassis frame in such a manner that it may be easily removed. It shall be braced so as to resist deformation of the bumper resulting from a rear or side impact. It shall be designed so as to discourage hitching of rides.

d. The bumper shall extend at least 1 inch beyond the rear-most part of body surface measured at the floor line.

e. Additions or alterations to the rear bumper, including the installation of trailer hitches, are prohibited.

f. An optional energy-absorbing rear bumper may be used, provided a self-restoring, energy-absorbing bumper system attached to prevent the hitching of rides is of sufficient strength to:

- (1) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body.
- (2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following FMVSS performance standards:

- 2.0 mph fixed barrier impact (FMVSS cart and barrier test).
- 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
- 5.0 mph center impact (Part 581, CFR Title 49).

(3) The manufacturer of the energy-absorbing system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS test.

**44.4(7) Certification.** The body manufacturer shall, upon request, certify to the department of education that the manufacturer's product(s) meets Iowa standards on items not covered by FMVSS certification requirements of 49 CFR Part 567.

**44.4(8) Chains, tire.** See subrule 44.3(35).

**44.4(9) Color.** See also subrule 44.3(11).

a. The school bus body shall be painted national school bus yellow. (See color standard, Appendix B, National School Transportation Specifications & Procedures Manual 2005, available from Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.)

b. The body exterior trim shall be glossy black, including the rear bumper, exterior lettering, numbering, body trim, rub rails, lamp hoods (if any), and emergency door arrow. This may also include the entrance door and window sashes. As an alternative, the rear bumper may be covered with a black

retroreflective material as described in subrule 44.4(34). When the bus number is placed on the front or rear bumper, the number shall be yellow.

*c.* As an option, the roof of the bus may be painted white extending down to within 6 inches above the drip rails on the sides of the body, except that the vertical portion of the front and rear roof caps shall remain yellow.

*d.* Commercial advertising is forbidden on the exterior and in the interior of all school buses.

**44.4(10) Construction.**

*a.* The school bus body shall be constructed of materials certified to be durable under normal operating conditions and shall meet all applicable FMVSS at the date of manufacture as certified by the bus body manufacturer.

*b.* Construction shall be reasonably dustproof and watertight.

*c.* Body joints present in that portion of the Type A-2 school bus body furnished exclusively by the body manufacturer shall conform to the performance requirements of FMVSS 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

*d.* A flat floor system featuring no wheelwells and no step-up at the rear of the passenger compartment may be used in accordance with the following:

(1) The inside height of the body shall remain at least 72 inches, when measured in accordance with subrule 44.4(21) when this option is installed.

(2) If this option utilizes a raised floor that is stepped up behind the driver's area, the forward edge of the aisle shall have a white stripe and be labeled "Step Up" visible to passengers upon entering the aisle; and a label "Step Down" shall be visible to passengers as they exit the aisle. Minimum headroom of 72 inches shall be maintained at all times.

(3) A flat floor design shall provide for the additional option for a track-mounted seating system using button-type (L track) and a wheelchair securement system meeting Iowa specifications but mounting into the track of the track-seating system. Aisle clearances shall be maintained in accordance with these rules.

**44.4(11) Crossing control arms.**

*a.* Type A, B, and C school buses shall be equipped with a crossing control arm mounted on the right side of the front bumper, which shall not open more than 90 degrees. This requirement does not apply to Type D vehicles having transit-style design features.

*b.* The crossing control arm shall incorporate a system of quick-disconnect connectors (electrical, vacuum, or air) at the crossing control arm base unit and shall be easily removable to allow for towing of the bus.

*c.* All components of the crossing control arm and all connections shall be weatherproofed.

*d.* The crossing control arm shall be constructed of noncorrodible or nonferrous material or treated in accordance with the body sheet metal standard. See subrule 44.4(25).

*e.* There shall be no sharp edges or projections that could cause hazard or injury to students.

*f.* The crossing control arm shall extend a minimum of 70 inches from the front bumper when in the extended position. This measurement shall be taken from the arm assembly attachment point on the bumper. However, the crossing control arm shall not extend past the ends of the bumper when in the stowed position.

*g.* The crossing control arm shall extend simultaneously with the stop arm(s) by means of the stop arm controls.

*h.* The crossing control arm system shall be designed to operate in extreme weather conditions including freezing rain, snow and temperatures below 0 degrees Fahrenheit without malfunctioning. The crossing control arm itself shall be constructed of a material that will prevent the arm from prematurely extending or from failing to retract due to sustained wind or wind gusts of up to 40 miles per hour.

*i.* The chassis bumper mounting bracket must be designed for the specific model chassis on which it will be mounted to ensure that the unit mounts flush and operates properly.

*j.* A single, cycle-interrupt switch with automatic reset shall be installed in the driver's compartment and shall be accessible to the driver from the driver's seat.

**44.4(12) Defrosters.**

a. Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the interior surfaces of the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

b. The defrosting system shall conform to SAE Standard J381.

c. The defroster and defogging system shall be capable of furnishing heated outside ambient air; however, the part of the system furnishing additional air to the windshield, entrance door and step well may be of the recirculating air type.

d. Auxiliary fans are required; however, they are not considered defrosting or defogging systems. See also subrule 44.4(53).

e. Portable heaters shall not be used.

**44.4(13) Doors and exits.**

a. Service door.

(1) The service door shall be heavy-duty power or manually operated under the control of the driver and shall be designed to afford easy release and prevent accidental opening. When a hand lever is used, no parts shall come together to shear or crush fingers. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation. A power-operated door must provide for manual operation in case of power failure.

(2) The service door shall be located on the right side of the bus opposite the driver and within the driver's direct view.

(3) The service door shall have a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches. Type A-2 vehicles shall have a minimum opening of 1,200 square inches.

(4) The service door shall be of split or jackknife type. (Split door includes any sectioned door which divides and opens inward or outward.) If one section of the split door opens inward and the other opens outward, the front section shall open outward.

(5) Lower as well as upper panels shall be of approved safety glass. The bottom of each lower glass panel shall not be more than 10 inches from the top surface of the bottom step. The top of each upper glass panel shall not be more than 3 inches from the top of the door.

(6) The upper window panels of the service door shall be of insulated double glass. This standard applies to all vehicles equipped with a service door as described in 44.4(13) "a."

(7) Vertical closing edges on split or folding entrance doors shall be equipped with flexible material to protect children's fingers.

(8) There shall be no door to the left of the driver on Type B, C or D vehicles. All Type A vehicles may be equipped with the chassis manufacturer's standard left side (driver's side) door.

(9) All doors shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend horizontally the full width of the door opening.

(10) Door hinges shall be secured to the body without the use of metal screws.

(11) There shall be no grab handle installed on the exterior of the service door.

(12) A door-locking mechanism may be installed in accordance with subrule 44.4(52).

(13) On power-operated service doors, the emergency release valve, switch or device to release the service door must be placed above or to the left or right of the service door and be clearly labeled.

b. Emergency doors.

(1) Emergency door(s) and other emergency exits shall comply with the requirements of FMVSS 217 and any of the requirements of these rules that exceed FMVSS 217.

(2) The upper portion of the emergency door shall be equipped with approved safety glazing, the exposed area of which shall be at least 400 square inches. The lower portion of the rear emergency doors on Type A-2, B, C and D vehicles shall be equipped with a minimum of 350 square inches of approved safety glazing.

(3) There shall be no steps leading to an emergency door.

(4) The emergency door(s) shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend the full width of the door opening.

(5) There shall be no obstruction higher than  $\frac{1}{4}$  inch across the bottom of any emergency door opening.

*c.* Emergency exit requirements.

(1) Any installed emergency exit shall comply with the design and performance requirements of FMVSS 217, Bus Emergency Exits and Window Retention and Release, applicable to that type of exit, regardless of whether or not that exit is required by FMVSS 217, and shall comply with any of the requirements of these rules that exceed FMVSS 217.

(2) An emergency exit may include either an emergency door or emergency exit-type windows. Where emergency exit-type windows are used, they shall be installed in pairs, one on each side of the bus. Type A, B, C, and D vehicles shall be equipped with a total number of emergency exits as follows for the designed capacities of vehicles:

- 0 to 42 passenger = 1 emergency exit per side and 1 roof hatch.
- 43 to 78 passenger = 2 emergency exits per side and 2 roof hatches.
- 79 to 90 passenger = 3 emergency exits per side and 2 roof hatches.

These emergency exits are in addition to the rear emergency door or rear pushout window/side emergency door combination required by FMVSS 217. Additional emergency exits installed to meet the capacity-based requirements of FMVSS 217 may be included to comprise the total number of exits specified. All roof hatches shall have design features as specified in subrule 44.4(53).

(3) Side and rear emergency doors and each emergency window exit shall be equipped with an audible warning device.

(4) Roof hatches shall be equipped with an audible warning device.

(5) Rear emergency windows on Type D, rear engine buses shall have a lifting-assistance device that will aid in lifting and holding the rear emergency window open.

(6) Side emergency windows may be either top-hinged or vertically hinged on the forward side of the window. No side emergency exit window will be located above a stop sign.

(7) On the inside surface of each school bus, located directly beneath or above all emergency doors and windows, shall be a "DO NOT BLOCK" label in a color that contrasts with the background of the label. The letters on this label shall be at least 1 inch high.

**44.4(14) *Driver's compartment.***

*a.* The driver's seat supplied by the body company shall be a high-back seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile adult male, as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flange-headed nuts.

*b.* The driver's seat positioning and range of adjustments shall be designed to accommodate comfortable actuation of the foot control pedals by 95 percent of the male and female adult population.

*c.* See also subrule 44.4(37).

*d.* A driver's document compartment or pouch shall be provided. The document compartment or pouch shall measure at least 17 inches by 12 inches by 4 inches. If a document pouch, rather than a covered compartment, is provided, it shall be located on the barrier behind the driver. It shall be constructed of a material of equal durability to that of the covering on the barrier and shall have a lid or cover with a latching device to hold the cover or lid closed.

*e.* A manual noise suppression switch shall be required and located in the control panel within easy reach of the driver while seated. The switch shall be labeled. This switch shall be an on/off type that deactivates body equipment that produces noise, including, at least, the AM/FM radio, heaters, air conditioners, fans, and defrosters. This switch shall not deactivate safety systems, such as windshield wipers, lighting systems, or two-way radio communication systems.

**44.4(15) *Emergency equipment.***

*a.* All Type A, B, C, and D school buses shall be equipped with the following emergency equipment: first-aid kit, fire extinguisher, webbing cutter, body fluid cleanup kit, and triangular warning devices.

*b.* All emergency equipment shall be securely mounted so that, in the event the bus is overturned, this equipment is held in place. Emergency equipment may be mounted in an enclosed compartment

provided that the compartment is labeled in not less than 1-inch letters, stating the piece(s) of equipment contained herein.

c. Fire extinguishers shall meet the following requirements:

(1) The bus shall be equipped with at least one five-pound capacity, UL-approved, pressurized dry chemical fire extinguisher complete with hose. The extinguisher shall be located in the driver's compartment readily accessible to the driver and passengers and shall be securely mounted in a heavy-duty automotive bracket so as to prevent accidental release in case of a crash or in the event the bus overturns.

(2) A calibrated or marked gauge shall be mounted on the extinguisher to indicate the amount of pressure in the extinguisher and shall be easily read without moving the extinguisher from its mounted position. Plastic discharge heads and related parts are not acceptable.

(3) The fire extinguisher shall have a rating of 2A-10BC or greater. The operating mechanism shall be sealed with a type of seal which will not interfere with the use of the fire extinguisher.

(4) All fire extinguishers shall be inspected and maintained in accordance with the National Fire Protection Association.

(5) Each extinguisher shall have a tag or label securely attached that indicates the month and year the extinguisher received its last maintenance and the identity of the person performing the service.

d. First-aid kit.

(1) The bus shall have a removable moistureproof and dustproof first-aid kit in an accessible place in the driver's compartment. It shall be mounted and secured, and identified as a first-aid kit. The location for the first-aid kit shall be marked.

(2) Multipurpose and passenger-type vehicles used as school buses shall be equipped with a ten-unit first-aid kit containing the following items:

- 1 1-inch adhesive compress.
- 1 2-inch bandage compress.
- 1 4-inch bandage compress.
- 1 3-inch × 3-inch plain gauze pad.
- 1 gauze roller bandage (4-inch × 5 yards).
- 1 plain absorbent gauze compress (2 piece, 18-inch × 36-inch).
- 1 plain absorbent gauze compress (24-inch × 72-inch).
- 2 triangular bandages.
- 1 wire splint (instant splints may be substituted).

(3) A first-aid kit meeting the national standards (National Standards First Aid Kit) and containing the following items is required on all Type A, B, C and D school buses:

- 2 1-inch × 2½-yard adhesive tape rolls.
- 24 3-inch × 3-inch sterile gauze pads.
- 100 ¾-inch × 3-inch adhesive bandages.
- 8 2-inch bandage compresses.
- 10 3-inch bandage compresses.
- 2 2-inch × 6-foot sterile gauze roller bandages.
- 2 39-inch × 35-inch × 54-inch nonsterile triangular bandages with two safety pins.
- 3 36-inch × 36-inch sterile gauze pads.
- 3 sterile eye pads.
- 1 pair medical examination gloves.
- 1 mouth-to-mouth airway.

*e.* Body fluid cleanup kit. Each bus shall be equipped with a disposable, removable, and moistureproof body fluid cleanup kit in a disposable container which includes the following items:

- (1) An EPA-registered liquid germicide (tuberculocidal) disinfectant;
- (2) A fully disposable wiping cloth;
- (3) A water-resistant spatula;
- (4) Step-by-step directions;
- (5) Absorbent material with odor counteractant;
- (6) Two pairs of gloves (latex);
- (7) One package towelettes;

(8) A discard bag (nonlabeled paper bag with a plastic liner and a twist tie). This bag shall be approximately 4 inches by 6 inches by 14 inches, and shall be of a nonsafety color (i.e., the bag shall not be red, orange, or yellow). The kit shall be mounted by a method that will retain it in place during normal school bus operation and shall be removable without the use of tools. The kit container shall be sealed with a breakable, nonreusable seal and must be accessible to the driver.

*f.* Triangular warning devices. Each school bus shall contain at least three reflectorized triangle road warning devices mounted in an accessible place. These devices must meet requirements in FMVSS 125.

*g.* Each bus shall be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device shall be mounted in an easily detachable manner and in a location accessible to the seated driver.

*h.* Axes are not allowed.

**44.4(16) Floor insulation and covering.**

*a.* The floor structure of Type A-2, B, C and D school buses shall be covered with an insulating layer of either a 5-ply minimum 5/8-inch-thick plywood, or a material of equal or greater strength and insulation R-value, having properties equal to or exceeding exterior-type softwood plywood, C-D grade as specified in standards issued by the United States Department of Commerce. All edges shall be sealed.

*b.* Type A-1 buses may be equipped with a minimum 1/2-inch-thick plywood meeting the above requirements.

*c.* The floor in the under-seat area of Type B, C, and D buses, including tops of wheelhousings, driver's compartment and toeboard, shall be covered with an elastomer floor covering having a minimum overall thickness of 1/8 inch and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302. The floor covering of the driver's area and toeboard area on all Type A buses may be the manufacturer's standard flooring and floor covering.

*d.* The floor covering in aisles of all buses shall be of a ribbed or other raised-pattern elastomer, having a coefficient of friction of 0.85, using ASTM 1894 or 0.65 using ASTM 2047, and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302. Minimum overall thickness shall be 3/16 inch measured from tops of ribs.

*e.* Floor covering must be permanently bonded to the floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of a type recommended by the manufacturer of the floor-covering material. All seams must be sealed with waterproof sealer.

*f.* On Type B, C and D buses, access to the fuel tank sending unit shall be provided. The access opening shall be large enough and positioned to allow easy removal of the sending unit. Any access opening in the body shall be capable of being sealed with a screw-down plate from within the body. When in place, the screw-down plate shall seal out dust, moisture and exhaust fumes. This plate shall not be installed under flooring material.

*g.* Cove molding shall be used along the sidewalls and rear corners. All joints or seams in the floor covering shall be covered with nonferrous metal stripping or stripping constructed of material exhibiting equal durability and sealing qualities.

**44.4(17) Fuel fill opening and cover.** Where an opening in the school bus body skirt is needed for access to the fuel fill cap, the opening shall be large enough to permit filling the fuel tank without the

need for special fuel nozzle adapters, a funnel, or other device. The opening shall be equipped with a forward hinged cover held closed by a spring or other conveniently operated device.

**44.4(18) Heating and air conditioning.**

- a. Each heater shall be hot-water or combustion type.
- b. If only one heater is used, it shall be a fresh-air or combination fresh-air and recirculation type.
- c. If more than one heater is used, additional heaters may be recirculating air type.
- d. The heating system shall be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.
- e. Auxiliary fuel-fired heating systems are permitted, provided they comply with the following:
  - (1) The auxiliary heating system shall utilize the same type of fuel as specified for the vehicle engine.
  - (2) Heater(s) may be direct hot air or connected to the engine's coolant system.
  - (3) An auxiliary heating system, when connected to the engine's coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus's heating system.
  - (4) Auxiliary heating systems must be installed pursuant to the manufacturer's recommendations and shall not direct exhaust in a manner that will endanger bus passengers.
  - (5) Auxiliary heating systems which operate on diesel fuel shall be capable of operating on #1, #2 or blended diesel fuel without the need for system adjustment.
  - (6) The auxiliary heating system shall be low voltage.
  - (7) Auxiliary heating systems shall comply with all applicable FMVSS including FMVSS 301 as well as SAE test procedures.
- f. Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or any sharp edges and shall not interfere with or restrict the operation of any engine function. Heater hoses shall conform to SAE Standard J20c. Heater lines on the interior of the bus shall be shielded to prevent scalding of the driver or passengers.
- g. Each hot water system installed by a body manufacturer shall include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all Type A and B buses, the valves may be installed in another accessible location.
- h. Each hot water heating system shall be equipped with a device that is installed in the hot water pressure line that regulates the water flow to all heaters and that is located for convenient operation by the driver while seated.
- i. All combustion heaters shall be in compliance with current federal motor carrier safety regulations.
- j. Accessible bleeder valves shall be installed in an appropriate place in the return lines of body company-installed heaters to remove air from the heater lines.
- k. Access panels shall be provided to make heater motors, cores, and fans readily accessible for service. An outside access panel may be provided for the driver's heater.
- l. Air-conditioning systems may be installed in accordance with the following:
  - (1) Evaporator cases, lines and ducting (as equipped) shall be designed so that all condensation is effectively drained to the exterior of the bus below floor level under all conditions of vehicle movement without leakage on any interior portion of the bus.
  - (2) Any evaporator or ducting system shall be designed and installed so as to be free of injury-producing projections or sharp edges. Installation shall not reduce compliance with any FMVSS applicable to the school bus. Ductwork shall be installed so that exposed edges face the front of the bus and do not present sharp edges.
  - (3) Any evaporators used must be copper-cored (aluminum or copper fins acceptable), except that the front evaporator, if provided by a Type A chassis manufacturer, may be aluminum-cored.
  - (4) Air intake for any evaporator assembly(ies) except for the front evaporator of a Type A bus shall be equipped with replaceable air filter(s) accessible without disassembly of the evaporator case.
  - (5) On buses equipped for the transportation of persons with disabilities, the evaporator and ducting shall be placed high enough so that they will not obstruct existing or potential occupant securement shoulder strap upper attachment points. This clearance shall be provided along the entire length of the

passenger area on both sides of the bus interior to allow for potential retrofitting of new wheelchair positions and occupant securement devices throughout the bus.

(6) The total system shall be warranted, including parts and labor, for at least two years and shall include, but not be limited to, compressor mounting bracketry and hardware and any belts which, directly or indirectly, drive the compressor(s). Air-conditioning compressor applications must be approved in writing by the chassis engine manufacturer, stating that the installations will not void or reduce the engine manufacturer's warranty or extended service coverage liabilities in any way.

(7) All components requiring periodic servicing must be readily accessible for servicing.

(8) Parts and service manuals shall be provided for the entire system including, but not limited to, compressor(s), wiring (includes wiring diagram), evaporators, condensers, controls, hoses and lines.

(9) Electrical requirements for the air-conditioning system shall be provided to the customer prior to vehicle purchase or, in the case of an after-purchase installation, prior to installing the air-conditioning system to ensure that adequate electrical demands imposed by the air-conditioning system are capable of being met.

(10) The installed air-conditioning system should cool the interior of the bus down to at least 80 degrees Fahrenheit, measured at a minimum of three points, located 4 feet above the floor at the longitudinal centerline of the bus. The three points shall be: near the driver's location; at the midpoint of the body; and 2 feet forward of the emergency door, or for Type D rear engine buses, 2 feet forward of the end of the aisle. Test conditions will be those as outlined in the National School Transportation Specifications & Procedures Manual 2005, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

**44.4(19) Hinges.** All exposed metal passenger-door hinges subject to corrosion shall be designed to allow lubrication without disassembly. All passenger-door hinges shall be securely bolted to the bus body. Metal screws are not acceptable.

**44.4(20) Identification.**

*a.* The body shall bear the words "SCHOOL BUS" in black letters at least 8 inches high on both front and rear of the body or on attached signs. The lettering shall be placed as high as possible without impairment of its visibility. The lettering shall conform to Series B of Standard Alphabets of Highway Signs. "SCHOOL BUS" lettering shall have a reflective background or, as an option, may be illuminated by backlighting.

*b.* The bus, whether school-owned or contractor-owned, shall have displayed at the beltline on each side of the vehicle the official name of the school in black standard unshaded letters at least 5 inches, but not more than 7 inches high.

Examples:

- (1) Blank community school district.
- (2) Blank independent school district.
- (3) Blank consolidated school district.

If there is insufficient space due to the length of the name of the school district, the words "community," "independent," "consolidated," and "district" may be abbreviated. If, after these abbreviations, there is still insufficient space available, the words "community school district" may be replaced by the uppercase letters "CSD" upon prior approval by the school transportation consultant of the Iowa department of education.

*c.* The incorporated names of cities located within an officially reorganized school district may be placed on either side of the bus in a single line situated beneath the official school district name. The lettering shall not exceed 2 inches in height and shall be black. This paragraph shall apply only when the names of the cities are not included in the official school district name on the beltline.

*d.* Buses privately owned and operated by an individual or individuals and used exclusively for transportation of students shall bear the name of the owner, at the beltline on each side of the vehicle in black standard unshaded letters at least 5 inches, but not more than 7 inches high.

*e.* The words "RATED CAPACITY," along with the appropriate number indicating the rated pupil seating capacity of the bus, shall be printed to the left of the entrance door, at least 6 inches below the name of the school district and on the bulkhead of the bus above the right windshield. The letters shall

be black in color and at least 2 inches in height. The word “CAPACITY” may be abbreviated and shown as “CAP.” where necessary.

*f.* The number of the bus shall be printed in not less than 5-inch or more than 8-inch black letters, except as otherwise noted in this subrule, and shall be displayed on both sides, the front and the rear of the bus. The location of the bus number is at the discretion of the vehicle owner except that the number:

(1) Shall be located to the rear of the service door not more than 36 inches from the ground on the right side of the bus and at the same respective position on the left side of the bus.

(2) Shall be yellow if located on either the front or rear bumper.

(3) May be placed on the roof of the bus at a position representing the approximate lateral and longitudinal midpoint of the bus. The bus number shall be black and shall measure not less than 24 inches in length.

(4) Shall not be located on the same line as the name of the school district on either side of the bus, on the emergency door, or in a location that will interfere with the words “SCHOOL BUS.”

*g.* Buses privately owned by individuals, a company, or a contractor shall also bear the name of the owner, followed by the word “OWNER” in not more than 2-inch characters printed approximately 6 inches below the bus capacity on the right side of the bus.

*h.* Symbols, characters or letters, for the purpose of vehicle or route identification by students, may be displayed in the lower, split-sash, glass portion of the third passenger window from the front on the service entrance side of the bus. Such symbols, characters or lettering, if used, shall not exceed 36 square inches. This requirement applies to all school buses regardless of date of purchase.

*i.* Symbols identifying the bus as equipped for or transporting students with special needs may be displayed. See subrule 44.5(7).

*j.* The words “UNLAWFUL TO PASS WHEN LIGHTS FLASH” shall be displayed on the rear emergency door of the bus between the upper and lower window glass sections. The letters shall be black and not less than 2 inches nor more than 6 inches in height. If there is not sufficient space on the emergency door, letter size may be reduced upon approval of the department of education.

*k.* Pressure-sensitive markings of vinyl material may be used for the above lettering in lieu of painting.

*l.* Any lettering, including the name of the school’s athletic team(s), numbers, drawings, bumper stickers, characters, or mascot symbols other than the bus manufacturer’s registered trademarks or those specifically noted in paragraphs “a” through “k” above are prohibited.

**44.4(21) Inside height.** Inside body height shall be 72 inches or more, measured metal to metal, at any point on the longitudinal centerline from the front vertical bow to the rear vertical bow. Inside body height of Type A-2 buses shall be 62 inches or more.

**44.4(22) Insulation.**

*a.* Thermal insulation in the ceiling and walls shall be fire-resistant, UL-approved, and approximately 1½-inch thick with a minimum R-value of 5.5. Insulation shall be installed in such a way as to prevent it from sagging.

*b.* Roof bows shall be insulated in accordance with 44.4(22)“a.”

**44.4(23) Interior.**

*a.* The interior of the bus shall be free of all unnecessary projections, including luggage racks and attendant handrails, to minimize the potential for injury. This standard requires inner lining on ceilings and walls. If the ceiling is constructed to contain lapped joints, the forward panel shall be lapped by the rear panel and exposed edges shall be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and tow chains. See also subrule 44.4(44).

*b.* Radio speakers are permitted in the passenger compartment area only. No radio speaker, other than that which is necessary for use with two-way communication equipment, shall be located within the driver’s compartment area. All radio speakers shall be flush-mounted with the roof or side panels and shall be free of sharp edges which could cause injury to a child.

*c.* The driver’s area forward of the foremost padded barriers shall permit the mounting of required safety equipment and vehicle operation equipment.

*d.* Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dBA when tested according to the procedure found in Appendix B, National School Transportation Specifications & Procedures Manual 2005, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

*e.* An access panel must be provided, front and rear, so lights and wiring for the 8-light warning system may be repaired or serviced without removing ceiling panels.

*f.* Ceiling material designed to reduce noise within the driver compartment or passenger compartment may be installed by the manufacturer.

*g.* An electronic "child check" monitor shall be installed. This monitor shall operate in such a way as to require the driver to physically walk to the back of the bus to disengage the monitor system after having first shut off the engine of the bus.

**44.4(24) Lamps and signals.**

*a.* All lamps and lamp components shall meet or exceed applicable standards established by the Society of Automotive Engineers (SAE), the American Association of Motor Vehicle Administrators (AAMVA), and FMVSS. These lamps shall be of incandescent or LED design.

*b.* Clearance lamps. The body shall be equipped with two amber lamps at the front and two red clearance lamps at the rear mounted at the highest and widest portion of the body.

*c.* Identification lamps. The bus shall be equipped with three amber identification lamps on the front and three red identification lamps on the rear. Each group shall be evenly spaced not less than 6 or more than 12 inches apart along a horizontal line near the top of the vehicle.

*d.* Intermediate side marker lamps. On all buses over 30 feet long, one amber side lamp is required on each side, located midway between the front and rear clearance lamps.

*e.* Stop/tail (brake) lamps. Buses shall be equipped with four combination, red, stop/tail lamps meeting SAE specifications. Each lamp shall have double filament lamp bulbs or LEDs that are connected to the headlamp and brake-operated stop lamp circuits. These should be positioned as follows:

(1) Two combination lamps with a minimum diameter of 7 inches or, if a shape other than round, a minimum of 38 square inches of illuminated area shall be mounted on the rear of the bus just to the inside of the turn signal lamps.

(2) Two combination lamps with a minimum diameter of 4 inches or, if a shape other than round, a minimum of 12 square inches of illuminated area shall be placed on the rear of the body between the beltline and the floor line. The rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A-2 buses with bodies supplied by the chassis manufacturer may have the manufacturer's standard stop and tail lamps.

*f.* Items described in paragraphs "*b*," "*c*," "*d*," and "*e*" shall be connected to the headlamp switch.

*g.* Backup lamps. The bus body shall be equipped with two white rear backup lamps. All vehicles shall be equipped with lamps at least 4 inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area. All lamps shall have a white or clear lens and shall meet SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they shall be to the inside.

*h.* Interior lamps. Interior lamps shall be provided which adequately illuminate the interior aisle and the step well. Step well lights shall be illuminated by a service door-operated switch, to illuminate only when headlights and clearance lights are on and the service door is open. In addition, the following interior lamps shall be provided:

(1) Supervisor's light. The rearmost ceiling light or a separate light may be used as a supervisor's light and shall be activated by a separate switch controlled by the driver.

(2) Driver's area dome light. This light shall have a separate switch controlled by the driver and shall illuminate the driver's compartment area.

(3) Body instrument panel lights shall be controlled by a rheostat switch.

(4) On buses equipped with a monitor for the front and rear lamps of the school bus, the monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

*i.* License plate lamp. The bus shall be equipped with a rear license plate illuminator. This lamp may be combined with one of the tail lamps.

*j.* Reflectors. Reflectors shall be securely attached to the body with sheet metal screws or other method having equivalent securement properties and installed in accordance with the requirements of FMVSS 108; however, the vehicle shall, as a minimum, be equipped with the following:

(1) Two amber reflectors, one on each side at the lower front and corner of the body approximately at floor level and back of the door on the right side, and at a similar location on the left side. For all buses over 30 feet long, an additional amber reflector is required on each side at or near the midpoint between the front and rear side reflectors.

(2) Four red reflectors, one at each side at or near the rear and two on the rear, one at each side.

(3) Reflectors are to be mounted at a height not more than 42 inches or less than 30 inches above the ground on which the vehicle stands.

*k.* Warning signal lamps.

(1) Buses shall be equipped with two red lamps at the rear of the vehicle and two red lamps at the front of the vehicle.

(2) In addition to the four red lamps described above, four amber lamps shall be installed so that one amber lamp is located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red and amber signal lamps shall be wired so that amber lamps are energized manually and the red lamps are automatically energized (sequential), with amber lamps being automatically de-energized, when the stop signal arm is extended or when the bus service door is opened. An amber pilot light and a red pilot light shall be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

(3) The area immediately around the lens of each alternately flashing signal lamp shall be black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of the lamp, there shall be a circular or square band of black immediately below and to both sides of the lens, on the body or roof area against which the signal lamp is seen from a distance of 500 feet along the axis of the vehicle. Black visors or hoods, with a minimum depth of 4 inches, may be provided.

(4) Red lamps shall flash at any time the stop signal arm is extended.

(5) All flashers for alternately flashing red and amber signal lamps shall be enclosed in the body in a readily accessible location.

(6) Strobe lights are permissible.

*l.* Turn signal lamps.

(1) The bus body shall be equipped with amber rear turn signal lamps that meet SAE specifications and are at least 7 inches in diameter or, if a shape other than round, a minimum of 38 square inches of illuminated area. These signal lamps must be connected to the chassis hazard warning switch to cause simultaneous flashing of turning signal lamps when needed as a vehicular traffic hazard warning. Turn signal lamps are to be placed as far apart as practical and their centerline shall be approximately 8 inches below the rear window. Type A-2 conversion vehicle lamps must be at least 21 square inches in lens area and in the manufacturer's standard color.

(2) Buses shall be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side shall be mounted rearward of the stop signal arm and the turn signal lamp on the right side shall be mounted rearward of the service door.

*m.* A white flashing strobe light rated for outdoor use and weather-sealed shall be installed on the roof of the bus not less than 1 foot or more than 4 feet from the rear center of the bus. The strobe light shall be located to the rear of the rearmost emergency roof hatch to prevent the roof hatch from diminishing the effectiveness of the strobe light. In addition:

(1) The strobe light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than the maximum legal height.

(2) The strobe light must be controlled by a separate switch with an indicator light which when lit will indicate that the strobe light is turned on.

(3) The light shall be used only in fog, rain, snow, or at times when visibility is restricted.

(4) Each model strobe shall be approved by the motor vehicle division, Iowa department of transportation.

**44.4(25) Metal treatment.**

a. All metal, except high-grade stainless steel or aluminum, used in construction of the bus body shall be zinc-coated or aluminum-coated to prevent corrosion. This requirement applies to, but is not limited to, such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

b. All metal parts that will be painted shall be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed to improve paint adhesion.

c. In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas, and surfaces subjected to abrasion during vehicle operation.

d. As evidence that the above requirements have been met, samples of materials and sections used in construction of the bus body subjected to a 1,000-hour salt spray test as provided for in the latest revision of ASTM Standard B-117 shall not lose more than 10 percent of material by weight.

**44.4(26) Mirrors.**

a. The interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing that retains the glass in the event of breakage. The mirror shall have rounded corners and protected edges. All Type A buses shall have a minimum of a 6-inch × 16-inch mirror; and Type B, C, and D buses shall have a minimum of a 6-inch × 30-inch mirror.

b. Each school bus shall be equipped with exterior mirrors meeting the requirements of FMVSS 111. Mirrors shall be easily adjustable, but shall be rigidly braced so as to reduce vibration.

c. Heated right- and left-side rearview mirrors shall be provided.

d. Systems offering a design feature permitting the driver to remotely adjust mirrors from the driver's compartment may be utilized.

e. The right side rearview mirrors must be unobstructed by the unwiped section of the windshield.

**44.4(27) Mounting.**

a. The chassis frame shall support the rear body cross member. Except where chassis components interfere, the bus body shall be attached to the chassis frame at each main floor sill in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.

b. Isolators shall be placed at all contact points between the body and chassis frame and shall be secured by a positive means to the chassis frame or body to prevent shifting, separation, or displacement of the isolators under severe operating conditions.

c. The body front shall be attached and sealed to the chassis cowl to prevent entry of water, dust, and fumes through the joint between the chassis cowl and body.

d. The refurbishing or reconditioning of a body-on-chassis school bus is restricted to the repair and replacement of school bus body or chassis components. The original body and chassis, as certified by the original equipment manufacturers, shall be retained as a unit upon completion of repairs. It is not permissible to exchange or interchange school bus bodies and chassis. The refurbisher or reconditioner shall certify that the vehicle meets all state and federal construction standards in effect as of the date of manufacture and shall provide suitable warranty on all work performed. See also subrule 44.7(1).

**44.4(28) Mud flaps.**

a. Mud flaps or guards are required and shall be provided and installed by the body manufacturer or manufacturer's representative for both front and rear wheels.

b. Front mud flaps or guards shall be of adequate size to protect body areas vulnerable to road debris from wheels and shall be mounted so as to be free of wheel movement at all times.

c. Rear mud flaps or guards shall be comparable in size to the width of the rear wheelhousing and shall reach within approximately 9 inches of the ground when the bus is empty. They shall be mounted

at a distance from the wheels to permit free access to spring hangers for lubrication and maintenance and to prevent their being pulled off while the vehicle is in reverse motion or damaged by tire chains.

*d.* All mud flaps shall be constructed of rubber. Vinyl or plastic is not acceptable.

**44.4(29) Overall length.** Overall length of the bus shall not exceed the maximum allowed by the Iowa department of transportation.

**44.4(30) Overall width.** Overall width of the bus shall not exceed the maximum allowed by the Iowa department of transportation.

**44.4(31) Passenger securement.** See subrule 44.4(39).

**44.4(32) Public address system.** A public address system permitting interior or exterior communication with passengers, or both types of communication, may be installed.

**44.4(33) Radio system.** In the interest of safety for the children transported and the effective management of the school transportation program, a two-way radio communication system is highly recommended.

**44.4(34) Retroreflective material.**

*a.* Retroreflective material shall be provided in accordance with the following:

(1) The rear of the bus body shall be marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material which conforms with the "Retroreflective Sheeting Daytime Color Specification Proposal" of Appendix B, National School Transportation Specifications & Procedures Manual 2005, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. The perimeter marking of rear emergency exits in accordance with FMVSS 217 and the use of reflective "SCHOOL BUS" signs partially accomplish the objective of this requirement. To complete the perimeter marking of the back of the bus, strips of at least 1¾-inch reflective NSBY material shall be applied horizontally above the rear windows and above the rear bumper, extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus; and vertical strips shall be applied at the corners connecting these horizontal strips.

(2) "SCHOOL BUS" signs, if not of lighted design, shall be marked with reflective NSBY material comprising background for lettering of the front and rear "SCHOOL BUS" signs.

(3) Sides of the bus body shall be marked with reflective NSBY material at least 1¾ inches in width, extending the length of the bus body and located within 6 inches above or below the floor line or on the beltline.

*b.* Front and rear bumpers may be marked diagonally 45 degrees down to centerline of pavement with 2-inch +/- ¼ inch wide strips of noncontrasting reflective material. This material shall appear black during daylight hours; however, it will be seen as a reflective material during periods of reduced light conditions when a direct light source strikes the material.

**44.4(35) Rub rails.**

*a.* One rub rail located on each side of the bus at, or no more than 8 inches above, the seat level shall extend from the rear side of the entrance door completely around the bus body (except for emergency door or any maintenance access door) to the point of curvature near the outside cowl on the left side.

*b.* One rub rail located at, or no more than 10 inches above, the floor line shall cover the same longitudinal area as the upper rub rail, except at wheel housings, and shall extend only to radii of the right and left rear corners.

*c.* Rub rails at or above the floor line shall be attached at each body post and all other upright structural members.

*d.* Each rub rail shall be 4 inches or more in width in its finished form, shall be of 16-gauge steel or suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion.

*e.* Rub rails shall be applied to outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For all buses using a rear luggage or rear engine compartment, rub rails need not extend around rear corners.

*f.* The bottom edge of the body side skirts shall be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

**44.4(36) Seat, driver.**

a. Type A school buses shall be equipped with a driver's seat of manufacturer's standard design meeting FMVSS.

b. All Type B, C, and D school buses shall have a driver's seat equipped with a one-piece high back designed to minimize the potential for head and neck injuries in rear impacts, providing minimum obstruction to the driver's view of passengers and meeting applicable requirements of FMVSS 222. The height of the seat back shall be sufficient to provide the specified protection for a 5th percentile adult female up to a 95th percentile adult male, as defined in FMVSS 208. The seat shall be centered behind the steering wheel with a backrest a minimum distance of 11 inches behind the steering wheel. The seat shall be securely mounted to the floor of the bus with Grade 5 or better bolts and shall be secured with locking nuts or lock washers and nuts.

c. All air brake-equipped school buses may be equipped with an air suspension driver's seat meeting the following additional requirements:

(1) The air control for height adjustment shall be within easy reach of the driver in the seated position.

(2) The seat cushion shall be a minimum of 19½ inches wide, shall be fully contoured for maximum comfort, and shall have a minimum of four adjustment positions to allow changes in seat bottom angle.

(3) The backrest shall include adjustable lumbar support.

(4) The seat shall have a minimum of 7 inches of forward and rearward travel, adjustable with the driver in the seated position. This requirement applies to the seat mechanism. Reduction of this requirement to no less than 4 inches due to barrier placement on 89-passenger capacity buses will be acceptable.

(5) The seat shall have a minimum of 4 inches of up and down travel.

(6) Seat back shall include adjustability of tilt angle.

(7) All adjustments shall be by fingertip controls without the use of tools.

(8) The seat shall comply with all applicable FMVSS.

**44.4(37) Seat belt/shoulder harness system, driver.** Buses shall be equipped with a Type 2 lap belt/shoulder harness seat belt assembly for the driver. This assembly may be integrated into the driver's seat. The design shall incorporate a fixed female push-button type latch on the right side at seat level, and a male locking bar tongue on the left retracting side. The assembly shall be equipped with a single, dual-sensitive emergency locking retractor (ELR) for the lap and shoulder belt. This system shall be designed to minimize "cinching down" on air sprung and standard seats. The lap portion of the belt shall be anchored or guided at the seat frame by a metal loop or other such device attached to the right side of the seat to prevent the driver from sliding sideways out of the seat. There shall be a minimum of 7 inches of adjustment of the "D" loop of the driver's shoulder harness on a nonintegrated style of seat belt assembly. Shoulder belt tension shall be no greater than is necessary to provide reliable retraction of the belt and removal of excess slack. The seat belt assembly and anchorage shall meet applicable FMVSS.

**44.4(38) Seats and crash barriers.**

a. All seats, component parts, and seat anchorage shall comply with applicable federal requirements as of the date of their manufacture.

b. All seats shall have a minimum cushion depth of 15 inches and a seat back height of 24 inches above the seating reference point and shall comply with all other requirements of FMVSS 222.

c. In determining the rated seating capacity of the bus, allowable average rump width shall be:

(1) Thirteen inches where a three-three seating plan is used.

(2) Fifteen inches where a three-two seating plan is used.

d. The following knee room requirements shall apply to all school bus bodies:

(1) Knee room shall meet the requirements of FMVSS 222 and shall be measured, on Type A-2, B, C and D school buses, at the center of the transverse line of the seat and at seat cushion height. The distance from the front of a seat back (cushion) to the back surface of the cushion on the preceding seat shall be not less than 24 inches. The seat upholstery may be placed against the seat cushion padding, but without compressing the padding, before the measurement is taken.

(2) On Type A-1 school buses, seat spacing shall be of the manufacturer's standard spacing.

*e.* All seats shall be forward-facing with seat frames attached to the seat rail with two bolts, washers and nuts or flange-headed nuts. Each seat leg shall be secured to the floor by a minimum of two bolts, washers, and nuts. Flange-head nuts may be used in lieu of nuts and washers, or seats may be track-mounted in conformance with FMVSS 222. This information shall be on a label permanently affixed to the bus.

*f.* Jump seats or portable seats are prohibited; however, use of a flip seat at any side emergency door location in conformance with FMVSS 222, including required aisle width to side door, is acceptable. Any flip seat shall be free of sharp projections on the underside of the seat bottom. The underside of the flip-up seat bottoms shall be padded or contoured to reduce the possibility of snagged clothing or injury during use. Flip seats shall be constructed to prevent passenger limbs from becoming entrapped between the seat back and the seat cushion when in an upright position. The seat cushion shall be designed to rise to a vertical position automatically when not occupied.

*g.* Seats, seat back cushions, and restraining barriers shall be covered with a material having 42-ounce finished weight, 54-inch width, and finished vinyl coating of 1.06 broken twill or other material with equal tensile strength, tear strength, seam strength, adhesion strength, and resistance to abrasion, cold and flex separation.

*h.* All fabric seams shall be chain- or lock-stitch sewn with two threads, each equal to or exceeding the tensile strength of "F"-rated nylon thread.

*i.* Crash barriers shall be installed conforming to FMVSS 222; however, all Type A-2 school bus bodies shall be equipped with padded crash barriers, one located immediately to the rear of the driver's seat and one at the service door entrance immediately to the rear of the step well.

*j.* Crash barriers and passenger seats may be constructed with materials that enable them to meet the criteria contained in the school bus seat upholstery fire block test specified in the National School Transportation Standards & Procedures Manual 2005, Central Missouri State University, Warrensburg, Missouri 64093. Fire block material, when used, shall include the covering of seat bottoms.

*k.* Seat cushions may contain a positive locking mechanism that requires removal of a security device before the seat may be unlatched.

**44.4(39) Passenger securement seating system.**

*a.* Type A-1 vehicles shall conform to all FMVSS at date of manufacture.

*b.* Unless otherwise required by FMVSS, school bus seats may be equipped with passenger securement systems for passengers with disabilities in accordance with 281—Chapter 41 when it is determined by the child's individual education program staffing team that special seating and positioning are necessary during transportation. When the staffing team determines that a passenger securement system is necessary to safely transport a student with a disability, the need shall be documented in the student's individual education plan (IEP).

*c.* When a child securement system is required in 44.4(39) "b," the seat, including seat frame, seat cushion, belt attachment points, belts and hardware shall comply with all applicable FMVSS at the time of manufacture. When it is determined that the securement system is no longer necessary to provide seating assistance to a child with a disability, the securement system shall be removed from the seat frame.

*d.* Children transported in child safety seats shall be secured to the school bus seat according to the child safety seat manufacturer's instructions.

**44.4(40) Steps.**

*a.* The first step at the service door shall be not less than 10 inches and not more than 14 inches from the ground when measured from the top surface of the step to the ground, based on standard chassis specifications, except that on Type D vehicles, the first step at the service door shall be 11 inches to 16 inches from the ground. A step well guard/skid plate shall be installed by the manufacturer on all Type D vehicles.

*b.* Step risers shall not exceed a height of 10 inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

*c.* Steps shall be enclosed to prevent accumulation of ice and snow.

- d. Steps shall not protrude beyond the side body line.
- e. A suitable device(s) shall be installed within the service entrance door area to assist passengers during entry or egress from the bus. The device(s) shall be designed so as to prevent injury or fatality to passengers from being dragged by the bus after becoming entangled in the device(s).

**44.4(41) Step treads.**

- a. All steps, including floor line platform area, shall be covered with an elastomer floor covering having a minimum overall thickness of 3/16 inch.
- b. Grooved design step treads shall be such that grooves run at a 90-degree angle to the long dimension of the step tread. The step covering shall be permanently bonded to a durable backing material that is resistant to corrosion.
- c. Step treads shall have a 1/2-inch white nosing as an integral piece without any joint.
- d. Step treads shall have abrasion resistance, slip resistance, weathering resistance, and flame resistance as outlined in the National School Transportation Specifications & Procedures Manual 2005, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.
- e. A 3-inch white rubber step edge at floor level, flush with the floor covering, shall be provided.

**44.4(42) Stirrup steps.**

- a. There shall be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning. Handles on the service door are prohibited.
- b. Steps or cutouts are permitted in the front bumper only, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

**44.4(43) Stop signal arm.**

- a. The stop signal arm shall be a flat 18-inch octagon exclusive of brackets for mounting. All lamps and lamp components shall comply with the requirements of FMVSS 131.
- b. Both surfaces of the sign shall be covered with reflectorized material having a reflective capability equal to or exceeding that of 3M Corporation high-intensity sheeting.
- c. The application of the reflective sheeting material shall be in accordance with the sheeting manufacturer's suggested application process. All copy shall be sharply defined and clean cut.
- d. The stop arm blade shall be mounted in the area below the driver's window on the left side of the bus.
- e. Each stop arm blade shall be automatically extended upon activation of the red warning signal lamp system and remain extended until the red signal lamps are deactivated. In addition, each stop arm blade shall be equipped with two double-faced, 4-inch, alternately flashing red lights. The use of strobe lamps in the stop arm blade is acceptable.
- f. A wind guard shall be installed which prevents air currents from circulating behind the blade.
- g. The stop arm shall be vacuum-, electric-, or air-operated; and the system must positively hold the sign in extended or retracted position to prevent whipping in the wind.
- h. If the air for an air-operated stop arm comes from the regular air brake system, the body manufacturer shall provide the necessary check valve and pressure reduction valve to safeguard the air supply for brake application.
- i. A second stop signal arm may be installed on the left side at or near the left rear corner of the school bus and shall meet the requirements of FMVSS 131.
- j. The two double-faced, 4-inch flashing lights may be replaced with an LED illuminated, high-visibility display, spelling out the word "STOP" visible to the front and rear. This lighting system shall comply with applicable FMVSS prior to installation.

**44.4(44) Storage compartments.**

- a. An enclosed space shall be provided in the driver's compartment for storing manuals and bus driver records.
- b. A storage container for tools, tire chains, and tow chains may be located either inside or outside the passenger compartment; but, if inside, it shall have a cover (seat cushion may not serve this purpose)

capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.

**44.4(45) Sun shield.**

- a. For Type B, C, and D vehicles, an interior adjustable transparent sun shield not less than 6 inches by 30 inches with a finished edge shall be installed in a position convenient for use by the driver.
- b. On all Type A buses the sun shield shall be the manufacturer's standard.

**44.4(46) Tailpipe.** See subrule 44.3(16).

**44.4(47) Front tow hooks.** See paragraph 44.3(7) "f."

**44.4(48) Rear tow hooks.** Two rear tow hooks are required on all school buses. Rear tow hooks shall be attached to the chassis frame and located under the rear bumper so the hook portion is under the body.

**44.4(49) Trash container and holding device.**

- a. When a trash container is placed on the school bus, it shall comply with the following:
  - (1) Meet the requirements of FMVSS 302, Flammability of Interior Materials.
  - (2) Be no greater than 14-quart capacity.
  - (3) Be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement.

- b. The container shall be placed in an accessible location in the driver's compartment of the school bus subject to department of education approval. The container shall not obstruct the aisle of the bus, access to safety equipment or passenger use of the service entrance door.

**44.4(50) Undercoating.**

- a. The entire underside of the bus body, including floor sections, cross member and below floor line side panels, shall be coated with rustproofing compound for which the compound manufacturer has issued notarized certification of compliance to the bus body builder that the compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520b using modified test procedures\* for the following requirements:

- (1) Salt spray resistance—pass test modified to 5 percent salt and 1000 hours.
- (2) Abrasion resistance—pass.
- (3) Fire resistance—pass.

\*Test panels to be prepared in accordance with paragraph 4.6.12 of TT-C-520b with modified procedure requiring that test be made on a 48-hour air cured film at thickness recommended by compound manufacturer.

- b. Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommended film thickness and shall show no evidence of voids in cured film.

**44.4(51) Vacuum check valve.** A vacuum check valve shall be provided and installed on the chassis by the school bus body manufacturer for connecting vacuum accessory items.

**44.4(52) Vandal lock.**

- a. The school bus may be equipped with a vandal locking system for securing the service entrance and emergency door(s).

- b. The vandal locking system shall include the following design features:

- (1) The entrance door is to be locked by an exterior key with a dead bolt, a remote control (cable) device or an electric device. The system must prevent the door from being accidentally locked by any motion the bus may encounter during its normal operation. This does not apply to Type A vehicles with a left-side driver's door.

- (2) When the bus is equipped with a rear-mounted engine, the emergency door and rear emergency exit window are to be locked by an interior slide bolt which shall activate a buzzer when the door or emergency exit window is locked and the ignition of the bus is turned on. The locking mechanism must be capable of being locked or unlocked without the use of a separate key or other similar device.

- (3) The engine starting system of the bus shall not operate if the rear or side emergency door or rear emergency exit window over the rear engine compartment is locked from either the inside or outside of the bus.

- (4) Hasp-type devices may not be attached to the bus for the purpose of securing any door or window.

**44.4(53) Ventilation.**

a. The body ventilation system on Type A, B, C and D buses shall include one static, nonclosing exhaust vent in the low-pressure area of the roof and one or more combination roof ventilation/emergency escape hatches in accordance with 44.4(13)“b.” The ventilation system shall be capable of being controlled and shall have sufficient capacity to maintain a proper quantity of air under operating conditions without the opening of windows except in extremely warm weather.

b. Each combination roof ventilation/emergency escape hatch shall be installed by the school bus body manufacturer or the body manufacturer’s approved representative and shall have the following design and installation features:

- (1) Multiposition fresh air ventilation.
- (2) Release handle(s) permitting operation as an emergency exit(s), accessible inside and outside the vehicle.
- (3) An audible warning system which sounds an alarm in the driver’s compartment area when the emergency roof hatch is unlatched shall be installed as a design feature by the manufacturer.
- (4) When more than one ventilation/emergency roof hatch is required, one shall be installed forward of the intersection of the horizontal and longitudinal midpoints of the bus in a low-pressure area of the roof. The second unit shall be installed on the roof in a location behind the rear axle. When only one ventilation/emergency roof hatch is required, it shall be installed in a low-pressure area of the roof at or near the longitudinal midpoint of the bus.

(5) Ventilation/emergency escape hatches may include static-type nonclosable ventilation.

c. Auxiliary fans shall be installed and shall meet the following requirements:

- (1) Two adjustable fans shall be installed on Type B, C and D buses. Fans for left and right sides shall be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.
- (2) Fans shall be a nominal 6-inch diameter except where noted below.
- (3) Fan blades shall be covered with a protective cage. Each fan shall be controlled by a separate switch capable of two-speed operation.
- (4) Type A buses shall have at least one fan having a nominal diameter of at least 4 inches meeting the above requirements.

**44.4(54) Wheelhousings.**

a. The wheelhousing opening shall allow for easy tire removal and service.

b. The wheelhousing shall be attached to the floor sheets in such a manner as to prevent any dust, water or fumes from entering the body. Wheelhousings shall be constructed of at least 16-gauge steel or other material capable of withstanding passenger or other expected loads applied internally or externally without deformation.

c. The inside height of the wheelhousing above the floor line shall not exceed 12 inches.

d. The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.

e. No part of a raised wheelhousing shall extend into the emergency door opening.

**44.4(55) Windshield and windows.**

a. All glass in windshield, windows, and doors shall be of approved safety glass consistent with American National Standard, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, Z-26.1, mounted so the permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction.

b. Glass in windshields may be heat-absorbing and may contain a shaded band across the top. Location of “fade out” shall be above the upper limit for maximum visibility.

c. Each full side window, other than emergency exits designated to comply with FMVSS 217, shall be split-sash type and shall provide an unobstructed emergency opening of at least 9 inches but not more than 13 inches high and 22 inches wide, obtained by lowering the window. When the driver’s window consists of two sections, both sections shall be capable of being moved or opened.

d. Insulated double glass is required in both sections of the left-side driver’s window and in the upper glass portion(s) of the service entrance door.

e. Window glass forward of the service door and in the driver's direct line of sight for observing exterior rearview mirrors and traffic shall be of insulated double glass. The door glass in Type A-2 vehicles equipped with a manufacturer's standard van-type, right-side service door may be of the manufacturer's standard design.

f. The school bus body manufacturer may design and install a protective device over the inside, lower window glass of a rear emergency door to protect it from being damaged or broken during normal operation. The protective device shall be securely mounted by the manufacturer, shall be free of projections which might harm passengers, and shall permit visibility through the device to the area outside and to the rear of the bus.

g. Tinted glazing capable of reducing the amount of light passing through a window may be installed consistent with rules established by the Iowa department of public safety relating to automotive window transparency standards, except that the following windows shall be of AS-II clear glass rating:

- (1) Both sections of the window to the immediate left of the driver.
- (2) All glass forward of and including the left-side driver's window.
- (3) The entire windshield area shall be of AS-I rating.
- (4) All glass in the service entrance door.

**44.4(56) Windshield washers.** Buses shall be equipped with electric wet-arm windshield washers which conform to the body manufacturer's recommendation as to type and size for the bus on which they are to be used. The windshield washer system on Type A vehicles may be of the manufacturer's standard design.

**44.4(57) Windshield wipers.**

a. For Type A vehicles, windshield wipers shall be supplied by the chassis manufacturer and shall be of the manufacturer's standard design. Windshield wipers shall meet the requirements of FMVSS 104.

b. Type B, C and D buses shall be equipped with two positive-action, two-speed or variable-speed electric or air windshield wipers. Windshield wipers shall have an intermittent wiping feature.

c. The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers. If one motor is used, the wipers shall work in tandem to give a full sweep of the windshield.

d. Wiper control(s) shall be located within easy reach of the driver and shall be designed to move the blades from the driver's view when the wiper control is in the "off" position.

**44.4(58) Wiring.**

a. All wiring shall conform to current SAE standards.

b. Circuits:

(1) Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse or circuit breaker or circuit protection device. All wiring shall use a standard color or number coding system or a combination of color and number coding. Each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

(2) A master wiring diagram shall be supplied for each vehicle provided by the body manufacturer. Chassis wiring diagrams, including any changes to wiring made by the body manufacturer, shall also be supplied to the end user.

(3) The following body interconnecting circuits shall be color-coded as noted:

| <u>FUNCTION</u>              | <u>COLOR</u> |
|------------------------------|--------------|
| Left Rear Directional Light  | Yellow       |
| Right Rear Directional Light | Dark Green   |
| Stoplights                   | Red          |
| Backup Lights                | Blue         |
| Taillights                   | Brown        |
| Ground                       | White        |
| Ignition Feed, Primary Feed  | Black        |

The color of cables shall correspond to SAE J 1128.

- c. Wiring shall be arranged in at least six regular circuits as follows:
  - (1) Head, tail, stop (brake) and instrument panel lamps.
  - (2) Clearance and step well lamps which shall be actuated when the service door is opened.
  - (3) Dome lamp.
  - (4) Ignition and emergency door signal.
  - (5) Turn signal lamps.
  - (6) Alternately flashing signal lamps.
- d. Any of the above combination circuits may be subdivided into additional independent circuits.
- e. Whenever heaters and defrosters are used, at least one additional circuit shall be installed.
- f. Whenever possible, all other electrical functions, such as Sanders and electric-type windshield wipers, shall be provided with independent and properly protected circuits.
- g. Each body circuit shall be coded by number or letter on a diagram of circuits which shall be attached to the body in a readily accessible location.
- h. The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.
- i. All wiring shall have an amperage capacity exceeding the design load by at least 25 percent. All wiring splices are to be made at an accessible location and noted as splices on wiring diagram.
- j. A body wiring diagram, of a size which can be easily read, shall be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel.
- k. The body power wire shall be attached to a special terminal on the chassis.
- l. All wires passing through metal openings shall be protected by a grommet.
- m. Wires not enclosed within the body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors, which shall be water-resistant and corrosion-resistant.

**281—44.5(285) Construction of vehicles for children with mobility problems.** The following shall apply to vehicles constructed for the transportation of children with mobility problems of such severity that the children are prohibited from utilizing the regular service door entrance. Vehicles constructed for transporting these children shall meet all FMVSS relating to school bus construction and Iowa school bus construction requirements as described in rules 281—44.1(285) and 281—44.4(285). The following standards shall also apply:

**44.5(1) General requirements.**

- a. Certification of these vehicles as multipurpose passenger vehicles due to capacity rating shall not relieve the manufacturer of the responsibility to provide a completed vehicle meeting all FMVSS for school buses as well as rules 281—44.1(285) to 281—44.4(285) relating to the construction of a school bus.
- b. Alteration of the interior of the vehicle is permissible if all seats and barriers, component parts, anchorages, wheelchair securement devices, and placement of seats and barriers and wheelchair securement devices comply with federal requirements as of date of manufacture. All equipment must be supplied by the original manufacturer and installed per the original manufacturer's specification. Alteration which would return the vehicle to conventional passenger seating shall include removal of all wheelchair securement devices, removal of the power lift, and rendering the special service door inoperable.
- c. Any school bus that is used for the transportation of children who are confined to a wheelchair or other restraining devices which prohibit use of the regular service entrance shall be equipped with a power lift located on the right side of the bus body and forward of the rear wheels on a Type B, C, or D bus. Wheelchair lift placement behind the rear wheels is allowed on Type A buses only. See paragraph 44.5(2) "f."
- d. The actual rated seating capacity following modification of a vehicle shall be placed at locations indicated in paragraph 44.4(20) "d."
- e. Ramps are not permitted.

**44.5(2) Specific requirements.***a. Aisle.*

(1) Aisles leading from wheelchair placement(s) to the special service door and the service door shall at all times be a minimum of 30 inches wide.

(2) Aisles leading to all the emergency doors from wheelchair placement(s) shall at all times be at least 20 inches in width.

*b. Barriers.*

(1) Barriers shall comply with and be installed as required by federal standards as of date of manufacture.

(2) A heavy-duty padded barrier or stanchion shall be provided immediately to the rear of the step well opening extending from the side wall of the bus to approximately the aisle to prevent a person from accidentally falling into the step well opening from floor level. A barrier or stanchion as mentioned above shall also be placed directly behind the driver.

(3) The power lift mechanism shall be padded and protected to prevent a child from accidentally getting any part of the child's body caught in the power lift mechanism or special service door at any time.

*c. Glazing.* Tinted glazing may be installed in all doors, windows, and windshield.

*d. Heaters.* An additional heater(s) may be installed in the rear portion of the bus on or behind wheel wells.

*e. Identification.* Buses with wheelchair lifts used for transporting physically handicapped children shall display universal handicapped symbols located on the front and rear of the vehicle below the window line. Emblems shall be white on blue, shall not exceed 12 × 12 inches in size, and may be reflectorized.

*f. Power lift.*

(1) The lifting mechanism shall be able to lift a minimum payload of 800 pounds.

(2) The power lift shall be located on the right side of the body and in no way be attached to the exterior sides of the bus, but should be confined within the perimeter of the school bus body when not extended. The power lift shall be located forward of the rear wheels of the vehicle on Type B, C and D buses. Wheelchair lift placement behind the rear wheels is allowed on Type A buses only.

(3) When the platform is in the fully "up" position, it shall be locked in position mechanically by means other than a support or lug in the door.

(4) All lift controls shall be portable and conveniently located on the inside of the bus near the special service door opening. Controls shall be easily operable from inside or outside the bus by either a platform standee or person seated in a wheelchair when the lift is in any position. A master cut-off switch shall be located in the driver's compartment. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

(5) Power lifts shall be equipped so they may be manually raised or lowered in the event of power failure of the power lift mechanism.

(6) The platform shall accommodate a wheelchair which is 30 inches wide. The platform shall be not less than 44 inches long, including guard panels or rails.

(7) The power lift platform shall be covered with skid-resistant material or be designed to prevent slipping.

(8) The lift platform shall be constructed to permit vision through that portion of the platform covering the window of the special service door when the platform is in the "up" position.

(9) All edges of the platform shall be designed to restrain a wheelchair and to prevent the operator's feet from being entangled during the raising and lowering process.

(10) The platform shall be fitted on both sides with full width shields which extend above the floor line of the lift platform.

(11) An operating safety barrier shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground level. The barrier shall not be capable of being manually operated.

(12) A self-adjusting, skid-resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in subparagraph (11) above.

(13) The power lift shall be designed so the lift will not operate unless the special service door(s) is opened and the lift platform is in the “down” or horizontal position.

(14) The lift travel shall allow the lift platform to rest securely on the ground.

(15) A circuit breaker, fuse, or other electrical protection device shall be installed between the power source and the lift motor if electrical power is used.

(16) When hydraulic pressure is used in the lifting process, the system shall be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full “up” position or full “down” position.

(17) All exposed parts of the power lift which are in direct line with the forward or rearward travel of a wheelchair student or attendant shall be padded with energy-absorbing material.

*g. Ramps.* Ramps are not permitted.

*h. Regular service entrance.*

(1) An additional fold-out or slide-out step may be provided which will provide for the step level to be no more than 6 inches from the ground level to assist persons with handicapping conditions that prohibit the use of the standard entrance step. This step, when stored and not in use, shall not impede or in any way block the normal use of the entrance.

(2) On power lift-equipped vehicles, service entrance steps shall be the full width of the step well, excluding the thickness of the doors in the open position.

*i. Seating and seating arrangements.*

(1) All seat spacing, seats, and related components shall comply with applicable federal standards as of date of manufacture.

(2) All seats shall be forward facing. Side-facing seats are prohibited.

(3) Seat frames may be equipped by the school bus body manufacturer with rings or other devices to which passenger restraint systems may be attached.

*j. Special light.* Light(s) shall be placed inside the bus to sufficiently illuminate the lift area and shall be activated from the door area.

*k. Special service opening.*

(1) There shall be an enclosed service opening located on the right side (curb side) of the body forward of the rear wheels to accommodate a wheelchair lift on Type B, C and D buses. This service opening may be placed on the right side (curb side) of the body behind the rear wheels on Type A buses only to accommodate a wheelchair lift in that location.

(2) The opening shall be at least 52 inches high and 40 inches wide and with doors open shall be of sufficient width to allow for the installation of various power lifts and related accessories as well as a lifting platform at least 32 inches wide.

(3) The opening shall be positioned far enough to the rear of the regular service door opening to prevent interference of the special service door(s) opening with the regular service doors.

(4) A drip molding shall be installed above the opening to effectively divert water from the entrance.

(5) Doorposts, headers, and all floor sections around this special opening shall be reinforced to provide strength and support equivalent to adjacent side wall and floor construction of an unaltered model.

(6) A header pad at least 3 inches wide, extending the width of special service door, shall be placed above the opening on the inside of the bus.

*l. Special service door(s).*

(1) All doors shall open outwardly.

(2) All doors shall have positive fastening devices to hold doors in the open position.

(3) All doors shall be equipped with heavy-duty hinges and shall be hinged to the side of the bus.

(4) All doors shall be weather sealed; and on buses with double doors, each door shall be of the same size and constructed so a flange on the forward door overlaps the edge of the rear door when closed.

(5) If optional power doors are installed, the design shall permit release of the doors for opening and closing by the attendant from the platform inside the bus.

(6) When manually operated dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward-mounted door shall have at least three-point fastening devices: One shall be to the header, one shall be to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide the same type of use as that of a standard entrance door.

(7) If the door is made of one-piece construction, the door shall be equipped with a slidebar, cam-operated locking device.

(8) Each door shall have installed a safety glass window, set in a waterproof manner, and aligned with the lower line of adjacent sash and as nearly as practical to the same size as other bus windows.

(9) Door materials, panels, and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering, and other exterior features shall match adjacent sections of the body.

(10) The door(s) shall be equipped with a device(s) that will actuate a flashing visible signal located in the driver's compartment when the door(s) is not securely closed. (An audible signal is not permitted.)

*m. Special student restraining devices.*

(1) Each wheelchair station shall be equipped with a lap and torso restraint system that meets applicable FMVSS.

(2) Special restraining devices such as shoulder harnesses, lap belts, and chest restraint systems may be installed to the seats providing that the devices do not require the alteration in any form of the school bus seat, seat cushion, framework, or related seat components. These restraints must be for the sole purpose of restraining passengers.

*n. Wheelchair securement systems.*

(1) Securement systems for wheelchairs shall meet or exceed applicable FMVSS.

(2) All wheelchair securement systems or devices shall be placed in the vehicle so that, when secured, both wheelchair and occupant are facing toward the front of the vehicle. Fastening devices resulting in a side-facing wheelchair and occupant are not permissible.

(3) Straps or seat-belt devices running through the wheels of the wheelchair or around the student seated in the wheelchair for the purpose of securing the wheelchair to the floor are not acceptable.

(4) The wheelchair securement system(s) shall be located in a school bus so that when a wheelchair is not secured in place the floor attachment system shall not extend above the floor level more than ½ inch.

#### **281—44.6(285) Family-type or multipurpose passenger vehicles.**

**44.6(1) General information.** These vehicles may be used as a school bus in accordance with the following general requirements:

*a.* The vehicle shall be an original equipment manufacturer's (OEM) product and manufactured as a family-type or multipurpose passenger vehicle (MPV).

(1) Vehicles classified as pickups are not allowed for use as student transportation.

(2) Vehicles used exclusively for driver's education are exempt from these requirements.

*b.* The manufacturer's rated capacity of this vehicle, which shall be determined only by the original equipment manufacturer (OEM) on the date of manufacture, shall not exceed nine persons including the driver. The capacity rating may not be changed or modified except by the original equipment manufacturer. Secondary stage or vehicle conversion manufacturers shall not establish vehicle capacity.

*c.* Alteration of this vehicle, following manufacture by the OEM, is prohibited. This includes, but is not limited to, the addition or removal of seats, ramps, wheelchair securement devices and power lifts.

EXCEPTION: OEM options or other manufacturer's accessories not in violation of these standards may be installed.

*d.* The vehicle shall not carry more passengers than there are seat belts as installed by the manufacturer.

*e.* The vehicle shall not be painted the color known as national school bus glossy yellow.

*f.* The vehicle shall not be equipped with a stop arm or flashing warning signal lamps.

*g.* This vehicle must load and unload students off the traveled portion of the roadway.

**44.6(2) *Special equipment.***

*a.* Interior liner. An interior liner that covers all exposed ceiling girders, sidewall posts, or other structural projections must be provided and installed by the manufacturer.

*b.* The vehicle, while transporting students to and from school, shall display a sign, visible to the rear, with the words "SCHOOL BUS." The sign shall be national school bus glossy yellow with black letters 6 inches high. The sign shall be a type that can be removed, dismounted, or covered when the vehicle is not transporting pupils to and from school.

*c.* A sign with the words "THIS VEHICLE STOPS AT ALL RAILROAD CROSSINGS," visible to the rear, may be used where appropriate and not in conflict with current statutes. If used, the words shall be black letters on a yellow background. The sign shall be of a type that can be dismounted, turned down, or covered when the vehicle is not transporting pupils to and from school.

*d.* Special brake lamps. The vehicle may be equipped with two roof-mounted lights not greater than 4 inches in diameter and positioned horizontally on the roof at least 36 inches apart. The lights shall be connected to the brake lamp circuit of the vehicle's electrical system and shall operate only when the brakes are applied. When lit, the lamps shall be red and shall be visible only to the rear.

*e.* First-aid kit. The vehicle shall carry a minimum ten-unit first-aid kit. See 44.4(15) "*d*"(2).

*f.* Fire extinguisher. The vehicle shall carry a dry chemical fire extinguisher of at least 2½-pound capacity with a rating of 2A-10BC. The extinguisher shall be equipped with a calibrated or marked gauge. Plastic discharge heads and related parts are not acceptable.

*g.* Each vehicle shall be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device shall be mounted in a location accessible to the seated driver in an easily detachable manner.

*h.* Each vehicle shall be equipped with a body fluid cleanup kit.

*i.* Each vehicle shall be equipped with a backup alarm beeper capable of a minimum of 112 db.

NOTE: This is effective for 2007 model year vehicles and newer.

**44.6(3) *Applicability of standards.*** The above standards apply to all vehicles (except as noted in 44.6(2) "*i*") of this type and those currently in service used to transport students to and from school.

**281—44.7(285) Repair, replacement of school bus body and chassis components following original equipment manufacture.**

**44.7(1) *Body and chassis repair following an accident.***

*a.* A school bus that has been involved in an accident in which there is damage to the body or chassis components may be repaired to the extent that such repair is possible and that the damaged component can be returned to the original equipment manufacturer's specification and function.

*b.* The individual or company making the repairs shall certify to the vehicle's owner that all repairs have been made in accordance with the original vehicle or component manufacturer's recommendations using original equipment manufacturer's materials and parts, or their guaranteed equal.

*c.* Repairs shall not cause the vehicle to no longer comply with any FMVSS in effect and applicable at the time the vehicle or component was manufactured.

**44.7(2) *New technology and equipment approval procedure.*** It is the intent of these rules to accommodate new technologies and equipment which will better facilitate the transportation of students to and from school and related activities. A new technology, piece of equipment or component that meets the following criteria may be adopted under the following conditions pending formal rule adoption:

*a.* The technology, equipment or component shall not compromise the effectiveness or integrity of any major safety system, unless it completely replaces the system.

*b.* It shall not diminish the safe environment of the interior of the bus.

- c.* It shall not create additional risk to students who are boarding or exiting the bus or are in or near the school bus loading zone.
- d.* It shall not create undue additional activity or responsibility for the driver.
- e.* It shall not generally decrease the safety or efficiency of the bus.
- f.* It shall generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus or generally assist the driver or make the driver's many tasks easier to perform.
- g.* A pilot test for the purpose of evaluating the performance of the new technology, product or vehicle component may be conducted at the direction of the school transportation consultant with the approval of the director of the department of education. The pilot test shall include a minimum of five, but not more than ten, applications of the technology, product or component at locations and over a period of time to be mutually agreed upon by the department and the manufacturer of the product.
- h.* The cost of the technology, product or vehicle component and its installation shall be the responsibility of the manufacturer unless other arrangements are made prior to testing or evaluation.
- i.* An evaluation of the product's performance shall be conducted by department staff, and if the product is determined to meet the criteria listed in 44.7(2) "a" to "f," measures shall be taken as soon as practicable to formally approve the product.
- j.* A technology, product or component not recommended for approval by the department shall immediately be removed from vehicles upon which pilot tests were being conducted; and its use shall be discontinued by schools or individuals serving as pilot test sites, upon receipt of written notice from the department of education.

These rules are intended to implement Iowa Code sections 285.8 and 321.373.

## APPENDIX:

National Highway Traffic Safety Administration  
Federal Motor Vehicle Safety Standards  
for School Buses and Transit Buses

| FMVSS No. | Title of Standard   | Transit Buses | School Buses under 10,000# GVWR | School Buses over 10,000# GVWR |
|-----------|---|---------------|---------------------------------|--------------------------------|
| 101       | Controls and Displays   | x             | x                               | x                              |
| 102       | Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect | x             | x                               | x                              |
| 103       | Windshield Defrosting and Defogging Systems   | x             | x                               | x                              |
| 104       | Windshield Wiping and Washing Systems   | x             | x                               | x                              |
| 105       | Hydraulic Brake Systems   | x             | x                               | x                              |
| 106       | Brake Hoses   | x             | x                               | x                              |
| 108       | Lamps, Reflective Devices, and Associated Equipment                                   | x             | x                               | x                              |
| 111       | Rearview Mirrors  | x             | x                               | x                              |
| 113       | Hood Latch System   | x             | x                               | x                              |
| 116       | Motor Vehicle Brake Fluids  | x             | x                               | x                              |
| 119       | New Pneumatic Tires for Vehicles Other Than Passenger Cars                            | x             | x                               | x                              |
| 120       | Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars                  | x             | x                               | x                              |
| 121       | Air Brake Systems   | x             | x                               | x                              |
| 124       | Accelerator Control Systems   | x             | x                               | x                              |
| 131       | School Bus Pedestrian Safety Devices  |               | x                               | x                              |
| 201       | Occupant Protection in Interior Impact  |               | x                               |                                |
| 202       | Head Restraints   |               | x                               |                                |
| 203       | Impact Protection for the Driver from the Steering Control System                     |               | x                               |                                |
| 204       | Steering Control Rearward Displacement  |               | x                               |                                |
| 205       | Glazing Materials   | x             | x                               | x                              |
| 207       | Seating Systems   | x             | x                               | x                              |
| 208       | Occupant Crash Protection   | x             | x                               | x                              |
| 209       | Seat Belt Assemblies  | x             | x                               | x                              |
| 210       | Seat Belt Assembly Anchorages   | x             | x                               | x                              |
| 212       | Windshield Mounting   |               | x                               |                                |
| 213       | Child Restraint Systems   |               | x                               | x                              |
| 214       | Side Impact Protection  |               | x                               |                                |
| 217       | Bus Emergency Exits and Window Retention and Release                                  | x             | x                               | x                              |
| 219       | Windshield Zone Intrusion   |               | x                               |                                |
| 220       | School Bus Rollover Protection  |               | x                               | x                              |
| 221       | School Bus Body Joint Strength  |               | x                               | x                              |
| 222       | School Bus Passenger Seating and Crash Protection                                     |               | x                               | x                              |
| 225       | Child Restraint Anchorage Systems   |               | x                               |                                |

**FMVSS 105, 106, 121 Hydraulic Brake Systems, Brake Hoses, Air Brake Systems****Subpart C—Brakes****§393.40 Required brake systems.**

(a) Each commercial motor vehicle must have brakes adequate to stop and hold the vehicle or combination of motor vehicles. Each commercial motor vehicle must meet the applicable service, parking, and emergency brake system requirements provided in this section.

(b) **Service brakes.** (1) **Hydraulic brake systems.** Motor vehicles equipped with hydraulic brake systems and manufactured on or after September 2, 1983, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 105 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 105 on the date of manufacture must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(2) **Air brake systems.** Buses, trucks and truck-tractors equipped with air brake systems and manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 121 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 121 on the date of manufacture must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(3) **Vacuum brake systems.** Motor vehicles equipped with vacuum brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(4) **Electric brake systems.** Motor vehicles equipped with electric brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(c) **Parking brakes.** Each commercial motor vehicle must be equipped with a parking brake system that meets the applicable requirements of §393.41.

(d) **Emergency brakes—partial failure of service brakes.**

(d)(1) **Hydraulic brake systems.** Motor vehicles manufactured on or after September 2, 1983, and equipped with a split service brake system must, at a minimum, meet the partial failure requirements of FMVSS No. 105 in effect on the date of manufacture.

(d)(2) **Air brake systems.** Buses, trucks and truck tractors manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must be equipped with an emergency brake system which, at a minimum, meets the requirements of FMVSS No. 121 in effect on the date of manufacture.

(d)(3) **Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.** Buses, trucks and truck tractors not subject to FMVSS Nos. 105 or 121 on the date of manufacture must meet the requirements of §393.40(e). Trailers not subject to FMVSS No. 121 at the time of manufacture must meet the requirements of §393.43.

(e) **Emergency brakes, vehicles manufactured on or after July 1, 1973.** (1) A bus, truck, truck tractor, or a combination of motor vehicles manufactured on or after July 1, 1973, and not covered under paragraphs (d)(1) or (d)(2) of this section, must have an emergency brake system which consists of emergency features of the service brake system or an emergency system separate from the service brake system. The emergency brake system must meet the applicable requirements of §§393.43 and 393.52.

(e)(2) A control by which the driver applies the emergency brake system must be located so that the driver can operate it from the normal seating position while restrained by any seat belts with which the vehicle is equipped. The emergency brake control may be combined with either the service brake control or the parking brake control. However, all three controls may not be combined.

(f) **Interconnected systems.** (1) If the brake systems required by §393.40(a) are interconnected in any way, they must be designed, constructed, and maintained so that in the event of a failure of any part of the operating mechanism of one or more of the systems (except the service brake actuation pedal or valve), the motor vehicle will have operative brakes and, for vehicles manufactured on or after July 1, 1973, be capable of meeting the requirements of §393.52(b).

(f)(2) A motor vehicle to which the requirements of FMVSS No. 105 (S5.1.2), dealing with partial failure of the service brake, applied at the time of manufacture meets the requirements of §393.40(f)(1) if the motor vehicle is maintained in conformity with FMVSS No. 105 and the motor vehicle is capable of meeting the requirements of §393.52(b), except in the case of a structural failure of the brake master cylinder body.

(f)(3) A bus is considered to meet the requirements of §393.40(f)(1) if it meets the requirements of §393.44 and §393.52(b).

**§393.51 Warning signals, air pressure and vacuum gauges.**

(a) **General rule.** Every bus, truck and truck tractor, except as provided in paragraph (f), must be equipped with a signal that provides a warning to the driver when a failure occurs in the vehicle's service brake system. The warning signal must meet the applicable requirements of paragraphs (b), (c), (d) or (e) of this section.

(b) **Hydraulic brakes.** Vehicles manufactured on or after September 1, 1975, must meet the brake system indicator lamp requirements of FMVSS No. 571.105 (S5.3) applicable to the vehicle on the date of manufacture. Vehicles manufactured on or after July 1, 1973, but before September 1, 1975, or to which FMVSS No. 571.105 was not applicable on the date of manufacture, must have a warning signal which operates before or upon application of the brakes in the event of a hydraulic-type complete failure of a partial system. The signal must be either visible within the driver's forward field of view or audible. The signal must be continuous. (Note: FMVSS No. 105 was applicable to trucks and buses from September 1, 1975, to October 12, 1976, and from September 1, 1983, to the present. FMVSS No. 105 was not applicable to trucks and buses manufactured between October 12, 1976, and September 1, 1983. Motor carriers have the option of equipping those vehicles to meet either the indicator lamp requirements of FMVSS No. 105, or the indicator lamp requirements specified in this paragraph for vehicles which were not subject to FMVSS No. 105 on the date of manufacture.)

(c) **Air brakes.** A commercial motor vehicle (regardless of the date of manufacture) equipped with service brakes activated by compressed air (air brakes) or a commercial motor vehicle towing a vehicle with service brakes activated by compressed air (air brakes) must be equipped with a pressure gauge and a warning signal. Trucks, truck tractors, and buses manufactured on or after March 1, 1975, must, at a minimum, have a pressure gauge and a warning signal which meets the requirements of FMVSS No. 121 (S5.1.4 for the pressure gauge and S5.1.5 for the warning signal) applicable to the vehicle on the date of manufacture of the vehicle. Power units to which FMVSS No. 571.121 was not applicable on the date of manufacture of the vehicle must be equipped with:

(c)(1) A pressure gauge, visible to a person seated in the normal driving position, which indicates the air pressure (in kilopascals (kPa) or pounds per square inch (psi)) available for braking; and

(c)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the air pressure in the service reservoir system is at 379 kPa (55 psi) and below, or one-half of the compressor governor cutout pressure, whichever is less.

(d) **Vacuum brakes.** A commercial motor vehicle (regardless of the date it was manufactured) having service brakes activated by vacuum or a vehicle towing a vehicle having service brakes activated by vacuum must be equipped with:

(d)(1) A vacuum gauge, visible to a person seated in the normal driving position, which indicates the vacuum (in millimeters or inches of mercury) available for braking; and

(d)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the vacuum in the vehicle's supply reservoir is less than 203 mm (8 inches) of mercury.

(e) **Hydraulic brakes applied or assisted by air or vacuum.** Each vehicle equipped with hydraulically activated service brakes which are applied or assisted by compressed air or vacuum, and to which FMVSS No. 105 was not applicable on the date of manufacture, must be equipped with a warning signal that conforms to paragraph (b) of this section for the hydraulic portion of the system; paragraph (c) of this section for the air assist/air applied portion; or paragraph (d) of this section for the vacuum assist/vacuum applied portion. This paragraph shall not be construed as requiring air pressure gauges or vacuum gauges, only warning signals.

(f) **Exceptions.** The rules in paragraphs (c), (d) and (e) of this section do not apply to property carrying commercial motor vehicles which have less than three axles and (1) were manufactured before July 1, 1973, and (2) have a manufacturer's gross vehicle weight rating less than 4,536 kg (10,001 pounds).

**§393.55 Antilock brake systems.**

(a) **Hydraulic brake systems.** Each truck and bus manufactured on or after March 1, 1999 (except trucks and buses engaged in driveaway-towaway operations), and equipped with a hydraulic brake system, shall be equipped with an antilock brake system that meets the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 105 (49 CFR 571.105, S5.5).

(b) **ABS malfunction indicators for hydraulic braked vehicles.** Each hydraulic braked vehicle subject to the requirements of paragraph (a) of this section shall be equipped with an ABS malfunction indicator system that meets the requirements of FMVSS No. 105 (49 CFR 571.105, S5.3).

(c) **Air brake systems.** (1) Each truck tractor manufactured on or after March 1, 1997 (except truck tractors engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(b)).

(c)(2) Each air braked commercial motor vehicle other than a truck tractor, manufactured on or after March 1, 1998 (except commercial motor vehicles engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(a) for trucks and buses, S5.2.3 for semitrailers, converter dollies and full trailers).

(d) **ABS malfunction circuits and signals for air braked vehicles.** (1) Each truck tractor manufactured on or after March 1, 1997, and each single-unit air braked vehicle manufactured on or after March 1, 1998, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction that affects the generation or transmission of response or control signals to the vehicle's antilock brake system (49 CFR 571.121, S5.1.6.2(a)).

(d)(2) Each truck tractor manufactured on or after March 1, 2001, and each single-unit vehicle that is equipped to tow another air-braked vehicle, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of transmitting a malfunction signal from the antilock brake system(s) on the towed vehicle(s) to the trailer ABS malfunction lamp in the cab of the towing vehicle, and shall have the means for connection of the electrical circuit to the towed vehicle. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.2(b)).

(d)(3) Each semitrailer, trailer converter dolly, and full trailer manufactured on or after March 1, 2001, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction in the trailer's antilock brake system, and shall have the means for connection of this ABS malfunction circuit to the towing vehicle. In addition, each trailer manufactured on or after March 1, 2001, subject to the requirements of paragraph (c)(2) of this section, that is designed to tow another air-brake equipped trailer shall be capable of transmitting a malfunction signal from the antilock brake system(s) of the trailer(s) it tows to the vehicle in front of the trailer. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.2).

(e) **Exterior ABS malfunction indicator lamps for trailers.** Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998, and before March 1, 2009, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an ABS malfunction indicator lamp which meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.3).

**§393.41 Parking brake system.**

(a) **Hydraulic-braked vehicles manufactured on or after September 2, 1983.** Each truck and bus (other than a school bus) with a GVWR of 4,536 kg (10,000 pounds) or less which is subject to this part and school buses with a GVWR greater than 4,536 kg (10,000 pounds) shall be equipped with a parking brake system as required by FMVSS No. 571.105 (S5.2) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). Hydraulic-braked

vehicles which were not subject to the parking brake requirements of FMVSS No. 571.105 (S5.2) must be equipped with a parking brake system that meets the requirements of paragraph (c) of this section.

(b) **Air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.** Each air-braked bus, truck and truck tractor manufactured on and after March 1, 1975, and each air-braked trailer except an agricultural commodity trailer, converter dolly, heavy hauler trailer or pulpwood trailer, shall be equipped with a parking brake system as required by FMVSS No. 121 (S5.6) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). An agricultural commodity trailer, heavy hauler or pulpwood trailer shall carry sufficient chocking blocks to prevent movement when parked.

(c) **Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.** (1) Each singly driven motor vehicle not subject to parking brake requirements of FMVSS Nos. 105 or 121 at the time of manufacturer, and every combination of motor vehicles must be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated, under any condition of loading in which it is found on a public road (free of ice and snow).

(c)(2) The parking brake system shall, at all times, be capable of being applied by either the driver's muscular effort or by spring action. If other energy is used to apply the parking brake, there must be an accumulation of that energy isolated from any common source and used exclusively for the operation of the parking brake.

**Exception:** This paragraph shall not be applicable to air-applied, mechanically-held parking brake systems which meet the parking brake requirements of FMVSS No. 121 (S5.6).

(c)(3) The parking brake system shall be held in the applied position by energy other than fluid pressure, air pressure, or electric energy. The parking brake system shall not be capable of being released unless adequate energy is available to immediately reapply the parking brake with the required effectiveness.

#### **§393.45 Brake tubing and hoses; hose assemblies and end fittings.**

(a) **General construction requirements for tubing and hoses, assemblies, and end fittings.** All brake tubing and hoses, brake hose assemblies, and brake hose end fittings must meet the applicable requirements of FMVSS No. 106 (49 CFR 571.106).

(b) **Brake tubing and hose installation.** Brake tubing and hose must:

(b)(1) Be long and flexible enough to accommodate without damage all normal motions of the parts to which it is attached;

(b)(2) Be secured against chaffing, kinking, or other mechanical damage; and

(b)(3) Be installed in a manner that prevents it from contacting the vehicle's exhaust system or any other source of high temperatures.

(c) **Nonmetallic brake tubing.** Coiled nonmetallic brake tubing may be used for connections between towed and towing motor vehicles or between the frame of a towed vehicle and the unsprung subframe of an adjustable axle of the motor vehicle if:

(c)(1) The coiled tubing has a straight segment (pigtail) at each end that is at least 51 mm (2 inches) in length and is encased in a spring guard or similar device which prevents the tubing from kinking at the fitting at which it is attached to the vehicle; and

(c)(2) The spring guard or similar device has at least 51 mm (2 inches) of closed coils or similar surface at its interface with the fitting and extends at least 38 mm (1½ inches) into the coiled segment of the tubing from its straight segment.

(d) **Brake tubing and hose connections.** All connections for air, vacuum, or hydraulic braking systems shall be installed so as to ensure an attachment free of leaks, constrictions or other conditions which would adversely affect the performance of the brake system.

#### **§393.50 Reservoirs required.**

(a) **Reservoir capacity for air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.** Buses, trucks, and truck-tractors manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975, must meet the reservoir requirements of FMVSS No. 121, S5.1.2, in effect on the date of manufacture.

(b) **Reservoir capacity for air-braked vehicles not subject to FMVSS No. 121 on the date of manufacture and all vacuum braked vehicles.** Each motor vehicle using air or vacuum braking must have either reserve capacity, or a reservoir, that would enable the driver to make a full service brake application with the engine stopped without depleting the air pressure or vacuum below 70 percent of that indicated by the air or vacuum gauge immediately before the brake application is made. For the purposes of this paragraph, a full service brake application means depressing the brake pedal or treadle valve to the limit of its travel.

(c) **Safeguarding of air and vacuum.** Each service reservoir system on a motor vehicle shall be protected against a loss of air pressure or vacuum due to a failure or leakage in the system between the service reservoir and the source of air pressure or vacuum, by check valves or equivalent devices whose proper functioning can be checked without disconnecting any air or vacuum line, or fitting.

(d) **Drain valves for air braked vehicles.** Each reservoir must have a condensate drain valve that can be manually operated. Automatic condensate drain valves may be used provided (1) they may be operated manually, or (2) a manual means of draining the reservoirs is retained.

### **FMVSS 301 Fuel System Integrity**

#### **§393.67 Liquid fuel tanks.**

(a) **Application of the rules in this section.** The rules in this section apply to tanks containing or supplying fuel for the operation of commercial motor vehicles or for the operation of auxiliary equipment installed on, or used in connection with commercial motor vehicles.

(a)(1) A liquid fuel tank manufactured on or after January 1, 1973, and a side mounted gasoline tank must conform to all the rules in this section.

(a)(2) A diesel fuel tank manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(7)(iii) and (d)(2) of this section.

(a)(3) A diesel fuel tank manufactured before January 1, 1973, and mounted on a vehicle other than bus must conform to the rules in paragraph (c)(7)(iii) of this section.

(a)(4) A gasoline tank, other than a side mounted gasoline tank, manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(1) through (10) and (d)(2) of this section.

(a)(5) A gasoline tank, other than a side mounted gasoline tank, manufactured before January 1, 1973, and mounted on a vehicle other than a bus must conform to the rules in paragraphs (c)(1) through (10), inclusive, of this section.

(a)(6) **Private motor carrier of passengers.** Motor carriers engaged in the private transportation of passengers may continue to operate a commercial motor vehicle which was not subject to this section or 49 CFR §571.301 at the time of its manufacture, provided the fuel tank of such vehicle is maintained to the original manufacturer's standards.

(a)(7) Motor vehicles that meet the fuel system integrity requirements of 49 CFR 571.301 are exempt from the requirements of this subpart, as they apply to the vehicle's fueling system.

(b) **Definitions.** As used in this section:

(b)(1) The term "liquid fuel tank" means a fuel tank designed to contain a fuel that is liquid at normal atmospheric pressures and temperatures.

(b)(2) A "side-mounted" fuel tank is a liquid fuel tank which:

(b)(2)(i) If mounted on a truck tractor, extends outboard of the vehicle frame and outside of the plan view outline of the cab; or

(b)(2)(ii) If mounted on a truck, extends outboard of a line parallel to the longitudinal centerline of the truck and tangent to the outboard side of a front tire in a straight ahead position. In determining whether a fuel tank on a truck or truck tractor is side mounted, the fill pipe is not considered a part of the tank.

(c) **Construction of liquid fuel tanks.**

(c)(1) **Joints.** Joints of a fuel tank body must be closed by arc, gas, seam, or spot welding, by brazing, by silver soldering, or by techniques which provide heat resistance and mechanical securement at least

equal to those specifically named. Joints must not be closed solely by crimping or by soldering with a lead based or other soft solder.

(c)(2) **Fittings.** The fuel tank body must have flanges or spuds suitable for the installation of all fittings.

(c)(3) **Threads.** The threads of all fittings must be Dryseal American Standard Taper Pipe Thread or Dryseal SAE Short Taper Pipe Thread, specified in Society of Automotive Engineers Standard J476, as contained in the 1971 edition of the "SAE Handbook", except that straight (non tapered) threads may be used on fittings having integral flanges and using gaskets for sealing. At least four full threads must be in engagement in each fitting.

(c)(4) **Drains and bottom fittings.**

(c)(4)(i) Drains or other bottom fittings must not extend more than 3/4 of an inch below the lowest part of the fuel tank or sump.

(c)(4)(ii) Drains or other bottom fittings must be protected against damage from impact.

(c)(4)(iii) If a fuel tank has drains the drain fittings must permit substantially complete drainage of the tank.

(c)(4)(iv) Drains or other bottom fittings must be installed in a flange or spud designed to accommodate it.

(c)(5) **Fuel withdrawal fittings.** Except for diesel fuel tanks, the fittings through which fuel is withdrawn from a fuel tank must be located above the normal level of fuel in the tank when the tank is full.

(c)(6) [Reserved]

(c)(7) **Fill pipe.**

(c)(7)(i) Each fill pipe must be designed and constructed to minimize the risk of fuel spillage during fueling operations and when the vehicle is involved in a crash.

(c)(7)(ii) For diesel-fueled vehicles, the fill pipe and vents of a fuel tank having a capacity of more than 94.75 L (25 gallons) of fuel must permit filling the tank with fuel at a rate of at least 75.8 L/m (20 gallons per minute) without fuel spillage.

(c)(7)(iii) For gasoline- and methanol-fueled vehicles with a GVWR of 3,744 kg (8,500 pounds) or less, the vehicle must permit filling the tank with fuel dispensed at the applicable fill rate required by the regulations of the Environmental Protection Agency under 40 CFR 80.22.

(c)(7)(iv) For gasoline- and methanol-fueled vehicles with a GVWR of 14,000 pounds (6,400 kg) or less, the vehicle must comply with the applicable fuel-spitback prevention and onboard refueling vapor recovery regulations of the Environmental Protection Agency under 40 CFR part 86.

(c)(7)(v) Each fill pipe must be fitted with a cap that can be fastened securely over the opening in the fill pipe. Screw threads or a bayonet-type point are methods of conforming to the requirements of paragraph (c) of this section.

(c)(8) **Safety venting system.** A liquid fuel tank with a capacity of more than 25 gallons of fuel must have a venting system which, in the event the tank is subjected to fire, will prevent internal tank pressure from rupturing the tank's body, seams, or bottom opening (if any).

(c)(9) **Pressure resistance.** The body and fittings of a liquid fuel tank with a capacity of more than 25 gallons of fuel must be capable of withstanding an internal hydrostatic pressure equal to 150% of the maximum internal pressure reached in the tank during the safety venting systems test specified in paragraph (d)(1) of this section.

(c)(10) **Air vent.** Each fuel tank must be equipped with a nonspill air vent (such as a ball check). The air vent may be combined with the fill pipe cap or safety vent, or it may be a separate unit installed on the fuel tank.

(c)(11) **Markings.** If the body of the fuel tank is readily visible when the tank is installed on the vehicle, the tank must be plainly marked with its liquid capacity. The tank must also be plainly marked with a warning against filling it to more than 95% of its liquid capacity.

(c)(12) **Overfill restriction.** A liquid fuel tank manufactured on or after January 1, 1973, must be designed and constructed so that:

(c)(12)(i) The tank cannot be filled, in a normal filling operation, with a quantity of fuel that exceeds 95% of the tank's liquid capacity; and

(c)(12)(ii) When the tank is filled, normal expansion of the fuel will not cause fuel spillage.

(d) **Liquid fuel tank tests.** Each liquid fuel tank must be capable of passing the tests specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance standards may be used.

(d)(1) **Safety venting system test.**

(d)(1)(i) **Procedure.** Fill the tank three fourths full with fuel, seal the fuel feed outlet, and invert the tank. When the fuel temperature is between 50°F and 80°F, apply an enveloping flame to the tank so that the temperature of the fuel rises at a rate of not less than 6°F and not more than 8°F per minute.

(d)(1)(ii) **Required performance.** The safety venting system required by paragraph (c)(8) of this section must activate before the internal pressure in the tank exceeds 50 pounds per square inch, gauge, and the internal pressure must not thereafter exceed the pressure at which the system activated by more than five pounds per square inch despite any further increase in the temperature of the fuel.

(d)(2) **Leakage test.**

(d)(2)(i) **Procedure.** Fill the tank to capacity with fuel having a temperature between 50°F and 80°F. With the fill pipe cap installed, turn the tank through an angle of 150° in any direction about any axis from its normal position.

(d)(2)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of one ounce by weight of fuel per minute in any position the tank assumes during the test.

(e) **Side-mounted liquid fuel tank tests.** Each side-mounted liquid fuel tank must be capable of passing the tests specified in paragraphs (e)(1) and (2) of this section and the test specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance criteria may be used.

(e)(1) **Drop test.**

(e)(1)(i) **Procedure.** Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 30 feet onto an unyielding surface so that it lands squarely on one corner.

(e)(1)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.

(e)(2) **Fill-pipe test.**

(e)(2)(i) **Procedure.** Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 10 feet onto an unyielding surface so that it lands squarely on its fill-pipe.

(e)(2)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.

(f) **Certification and markings.** Each liquid fuel tank shall be legibly and permanently marked by the manufacturer with the following minimum information:

(f)(1) The month and year of manufacture,

(f)(2) The manufacturer's name on tanks manufactured on and after July 1, 1989, and means of identifying the facility at which the tank was manufactured, and

(f)(3) A certificate that it conforms to the rules in this section applicable to the tank. The certificate must be in the form set forth in either of the following:

(f)(3)(i) If a tank conforms to all rules in this section pertaining to side mounted fuel tanks: "Meets all FMCSA sidemounted tank requirements."

(f)(3)(ii) If a tank conforms to all rules in this section pertaining to tanks which are not side mounted fuel tanks: "Meets all FMCSA requirements for non side mounted fuel tanks."

(f)(3)(iii) The form of certificate specified in paragraph (f)(3)(i) or (ii) of this section may be used on a liquid fuel tank manufactured before July 11, 1973, but it is not mandatory for liquid fuel tanks manufactured before March 7, 1989. The form of certification manufactured on or before March 7, 1989, must meet the requirements in effect at the time of manufacture.

(f)(4) **Exception.** The following previously exempted vehicles are not required to carry the certification and marking specified in paragraphs (f)(1) through (3) of this section:

(f)(4)(i) Ford vehicles with GVWR over 10,000 pounds identified as follows: The vehicle identification numbers (VINs) contain A, K, L, M, N, W, or X in the fourth position.

(f)(4)(ii) GM G-Vans (Chevrolet Express and GMC Savanna) and full-sized C/K trucks (Chevrolet Silverado and GMC Sierra) with GVWR over 10,000 pounds identified as follows: The VINs contain either a “J” or a “K” in the fourth position. In addition, the seventh position of the VINs on the G-Van will contain a “1.”

[36 FR 15445, Aug. 14, 1971, as amended at 37 FR 4341, Mar. 2, 1972; 37 FR 28753, Dec. 29, 1972; 45 FR 46424, July 10, 1980; 53 FR 49400, Dec. 7, 1988; 59 FR 8753, Feb. 23, 1994; 66 FR 49874, Oct. 1, 2001; 69 FR 31305, June 3, 2004; 70 FR 48053, Aug. 15, 2005]

[Filed 7/1/52; amended 2/13/68, 6/24/69, 8/17/73, 12/21/73, 6/24/75]

[Filed 2/2/76, Notice 12/29/75—published 2/9/76, effective 3/15/76]

[Filed 5/11/79, Notice 3/21/79—published 5/30/79, effective 7/4/79]

[Filed 7/19/88, Notice 6/1/88—published 8/10/88, effective 9/14/88]

[Filed emergency 1/12/89—published 2/8/89, effective 1/12/89]

[Filed emergency 4/13/89—published 5/3/89, effective 4/14/89]

[Filed 4/13/89, Notice 2/8/89—published 5/3/89, effective 6/7/89]

[Filed emergency 1/17/90—published 2/7/90, effective 1/17/90]

[Filed 4/13/90, Notice 2/7/90—published 5/2/90, effective 6/6/90]

[Filed 9/16/98, Notice 6/17/98—published 10/7/98, effective 11/11/98]

[Filed 9/19/06, Notice 6/7/06—published 10/11/06, effective 11/15/06]

[Filed ARC 9263B (Notice ARC 9145B, IAB 10/6/10), IAB 12/15/10, effective 1/19/11]



CHAPTER 68  
IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

DIVISION I  
GENERAL PROVISIONS

**281—68.1(256F,83GA,SF2033) Purpose.** All charter schools and innovation zone schools in Iowa are public schools whose purpose is established pursuant to Iowa Code chapter 256F as amended by 2010 Iowa Acts, Senate File 2033. A charter school may be established by creating a new school within an existing public school or by converting an existing public school to charter status. This chapter provides the criteria and weighting for those criteria that the state board shall use to determine if an application for a public charter school or innovation zone school shall be approved.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.2(256F,83GA,SF2033) Definitions.**

*“Advisory council”* means a council appointed by the school board of a charter school or an innovation zone consortium. With respect to a charter school, no more than one member of the council may be a member of the school board; a district’s school improvement advisory committee may also serve as its advisory council. With respect to an innovation zone consortium, no more than one member of the council may be a member of any participating school board. All advisory councils are subject to the provisions of Iowa Code chapters 21 and 22.

*“Charter school”* means a new school designated by the state board and created within an existing attendance center or a new school created by converting an existing attendance center to charter status.

*“Charter school authorizers”* means the local school board in partnership with the state board of education.

*“Department”* means the Iowa department of education.

*“Family unit”* means a household in which reside one or more students enrolled at the existing public school that is the subject of either a charter school application or an innovation zone school application.

*“Innovation zone consortium”* means a consortium of two or more school districts and an area education agency in which one or more of the school districts are located which receives approval from the state board to establish an innovation zone school.

*“Innovation zone school”* means a public school established as an innovation zone school pursuant to an innovation zone school contract entered into by an innovation zone consortium to meet one or more of the purposes in Iowa Code section 256F.1 as amended by 2010 Iowa Acts, Senate File 2033.

*“School board”* means a board of directors regularly elected by the registered voters of a school district.

*“State board”* means the state board of education.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

DIVISION II  
CHARTER SCHOOLS

**281—68.3(256F,83GA,SF2033) Application to a school board.** A local school board may accept applications from the principal, teachers, or parents or guardians of students at an existing public school for the planning and operation of a charter school within the boundary lines of an existing public school district. An application for a charter school must be approved by the local school board as a prerequisite for submission of the application to the state board. An applicant may appeal the local school board denial of the application to the state board under the procedures set forth in Iowa Code chapter 290.

1. Prior to accepting applications, a local school board shall adopt procedures, criteria, and weighting of the criteria that will determine whether an application is approved or denied. The local school board may adopt the procedures, criteria, and weighting of the criteria as established in this chapter for public charter schools. The procedures shall include a requirement that a majority of family units of the proposed charter school support the approval of the application. In addition, any application that has been submitted and for which subsequent school board action has been taken shall, at minimum,

meet the provisions of Iowa Code chapter 256F. An application that is received by a school board on or before October 1 of a calendar year shall be considered for approval and for the establishment of a charter school at the beginning of the school district's next school year or at a time agreed to by the applicant and the local school board.

2. Subject to the provision in numbered paragraph "3," a local school board may receive and consider applications after October 1 at its discretion. A local school board, by majority vote, must approve or deny the application within 60 calendar days after the application is received. An application approved by the local school board and state board of education shall constitute, at a minimum, an agreement between the local school board and the charter school for the operation of the charter school for no less than four years.

3. All applications approved by school boards shall be submitted to the department no later than December 15 immediately preceding the school year for which the charter school desires to start operations.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.4(256F,83GA,SF2033) Review process.**

**68.4(1) *Application to the department.*** Upon a local school board's approval of an application for the proposed establishment of a charter school, the local school board must submit the application for such establishment to the department. The department shall appoint, at minimum, five individuals knowledgeable in student achievement and nontraditional learning environments to review each application for charter status. A reviewer shall not participate in the review of any application in which the individual may have an interest, direct or indirect.

**68.4(2) *Ranking of applications.*** Applications shall be ranked on a point system, and applications shall be recommended in rank order beginning with the application with the highest points. In the event that two or more applications tie, the applications will be reviewed until the tie is broken.

The maximum points for an application shall be 100. The maximum points for each criterion provided in Iowa Code section 256F.5 as amended by 2010 Iowa Acts, Senate File 2033, section 16, shall be as follows:

*a. Overview.* The mission, purpose, innovation, and specialized focus of the charter school. The maximum number of points that can be awarded is 40.

*b. Organization and structure.* The maximum number of points that can be awarded is 10. The description of the organization and structure shall include:

(1) The charter school governance and bylaws.

(2) The method for appointing or forming an advisory council for the charter school. The membership of an advisory council appointed or formed in accordance with this chapter shall not include more than one member of the local school board. The advisory council shall, to the greatest extent possible, reflect the demographics of the student population to be served by the public charter school.

(3) The organization of the school in terms of ages of students or grades to be taught along with an estimate of the total enrollment of the school.

(4) The method for admission to the public charter school. The admission policy shall support the purpose and specialized mission of the public charter school. A lottery process must be described in the application for a public charter school in the event that the number of applicants exceeds the capacity of the public charter school. The admission process shall not discriminate against prospective students on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or disability, except if a charter school limits enrollment pursuant to Iowa Code section 256F.4(3).

(5) The number and qualifications of teachers and administrators to be employed. Hiring shall, to the greatest extent possible, reflect the demographics of the student population to be served by the public charter school.

(6) Procedures for teacher and administrator evaluation.

(7) Procedures for identification and implementation of professional development for teachers and administrators as required under 281—12.7(256,284,284A) and the Iowa teaching standards, including the opportunity to be responsible for the learning program at the school site.

(8) A plan of operation to be implemented if the public charter school revokes or fails to renew its contract.

(9) The specific statutes, administrative rules, and school board policies with which the public charter school does not intend to comply.

*c. Facilities/financial support.* The maximum number of points that can be awarded is 10. The description of the facilities/financial support shall include:

(1) The provision of school facilities.

(2) The financial plan for the operation of the school including, at minimum, a listing of the support services the school district will provide, and the public charter school's revenues, budgets, and expenditures.

(3) Assurance of the assumption of liability by the public charter school.

(4) The types and amounts of insurance coverage to be obtained by the public charter school.

(5) The means, costs, and plan for providing transportation for students attending the public charter school.

*d. Student achievement.* The maximum number of points that can be awarded is 40. The description shall include:

(1) Performance goals and objectives in addition to those required under Iowa Code section 256.7(21) and 281—Chapter 12, by which the school's student achievement shall be judged, the measures to be used to assess progress, and the current baseline status with respect to the goals.

(2) The educational program and curriculum utilizing different and innovative instructional methodologies that reflect sensitivity to gender, racial, ethnic and socioeconomic backgrounds. Services to be offered to all prospective students, including students with disabilities pursuant to the requirements of 281—Chapter 41, English Language Learners (ELL), and other students considered "at risk," must also reflect the same sensitivities.

(3) A statement that indicates how the public charter school will meet the purpose of a public charter school as outlined in Iowa Code section 256F.1(3), and the minimum state and federal statutory requirements of a public charter school as outlined in Iowa Code section 256F.4(2).

**68.4(3) State board review.** The state board shall review the recommendations provided by the department. The state board shall, by a majority vote, approve or deny an application within 90 calendar days of receipt of the application and shall notify applicants within 5 days of the state board's decision. An approved application shall be a part of the contract for the operation of the charter school. The terms of the contract for the operation of the charter school shall also outline the reasons for revocation or nonrenewal of the charter.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.5(256F,83GA,SF2033) Ongoing review by department.** A charter school shall be reviewed periodically by the department to ensure continuing compliance with the charter school's contract. The department may schedule mandatory meetings with the administrators of all charter schools at the department's sole discretion.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.6(256F,83GA,SF2033) Renewal of charter.** After the initial four-year contract for a charter school and at the end of each renewal period thereafter, the school board that established the charter school shall, in the absence of revoking the charter pursuant to subrules 68.7(1) and 68.7(2), take affirmative action to renew a charter school contract. The school board shall hold a public hearing on the issue of renewal and shall submit to the department a copy of the minutes of the public hearing showing that a majority of the school board members voted in favor of renewal of the charter. Any action to renew a charter must specify the number of years, which shall not be more than four years, for which the charter was renewed by the school board.

A school board must submit a new application to the department if the board modifies any of the terms of the original charter.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.7(256F,83GA,SF2033) Revocation of charter.**

**68.7(1) *Reasons for revocation.*** A charter may be revoked by the state board or by the school board that established the charter if either board determines that one or more of the following occurred:

a. The charter school has failed to meet the provisions set forth in the contract for the operation of the charter school.

b. The charter school has failed to comply with the provisions in Iowa Code chapter 256F.

c. The charter school has failed to meet generally accepted accounting principles for public entities.

d. The charter school has failed to demonstrate improvement in student progress in reading, mathematics, and science from that which existed prior to the establishment of the charter school to the present as evidenced by achievement scores on the latest administration of the state assessment for which scores are available, or as evidenced by alternative but equivalent locally determined performance measures including but not limited to additional administrations of the state assessment, portfolios of student work, student performance rubrics, or end-of-course assessments.

**68.7(2) *Revocation by school board.*** A school board considering the revocation of a contract with its charter school shall notify the advisory council, the family units, and the teachers and administrators employed by the charter school at least 60 days prior to the date by which the contract must be renewed but not later than the last day of classes in the school year. The decision of a school board to revoke or fail to renew a charter school contract is subject to appeal under procedures set forth in Iowa Code chapter 290 by an affected student or parent of an affected student who is a minor.

**68.7(3) *Revocation by state board.*** If the state board determines that reason exists under subrule 68.7(1) to revoke a charter school contract, the state board shall notify the school board and the advisory council of the charter school of the state board's intention to revoke the contract at least 60 days prior to the revocation of the contract, and the school board shall assume oversight authority, operational authority, or both oversight and operational authority. The notice shall state the grounds for the proposed action in writing and in reasonable detail. The school board may request in writing an informal hearing before the state board within 14 days of receiving notice of revocation of the contract. Upon receiving a timely written request for a hearing, the state board shall give reasonable notice to the school board of the hearing date. The state board shall conduct an informal hearing before taking final action. Final action to revoke a contract shall be taken in a manner least disruptive to the students enrolled in the charter school. The state board shall take final action to revoke or approve continuation of a contract by the last day of classes in the school year. If the final action to revoke a contract under Iowa Code section 256F.8 occurs prior to the last day of classes in the school year, a charter school student may enroll in the resident district. The decision of the state board to revoke a contract under Iowa Code section 256F.8 is solely within the discretion of the state board and is final.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.8 to 68.10** Reserved.

DIVISION III  
INNOVATION ZONE SCHOOLS

**281—68.11(256F,83GA,SF2033) Application process.** An innovation zone consortium shall submit an application to establish an innovation zone school to the state board no later than December 15 immediately preceding the school year for which the innovation zone school desires to start operations. The application shall demonstrate the support, as of approximately the date of submission of the application, of at least 50 percent of the teachers employed at the proposed innovation zone school and at least 50 percent of the affected family units. The application shall set forth the manner in which the

innovation zone school will comply with federal and state laws regarding instruction to students who are English language learners and regarding the National School Lunch Act and Child Nutrition Act.  
[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.12(256F,83GA,SF2033) Review process.** Upon timely receipt of an application from an innovation zone consortium for the proposed establishment of an innovation zone school, the department shall appoint a minimum of five individuals knowledgeable in student achievement and nontraditional learning environments to review each application for an innovation zone school. A reviewer shall not participate in the review of any application in which the individual may have an interest, direct or indirect.

**68.12(1) Cap on number of innovation zone schools.** Pursuant to Iowa Code section 256F.3 as amended by 2010 Iowa Acts, Senate File 2033, section 10, the state board shall approve the establishment of not more than ten innovation zone schools.

**68.12(2) Allocation of points on applications.** Points shall be allocated to applications; the maximum points for any one application shall be 100. The maximum points for each criterion shall be as set forth in paragraphs 68.4(2) “a” to “d.” The department shall make a recommendation to the state board regarding whether an application should be approved or denied by the state board.

**68.12(3) State board review.** The state board shall review the recommendations provided by the department. The state board shall, by a majority vote, approve or deny an application within 90 calendar days of receipt of the application and shall notify applicants within 5 days of the state board’s decision. An approved application shall be a part of the contract for the operation of the innovation zone school. The terms of the contract for the operation of the innovation zone school shall also outline the reasons for revocation or nonrenewal of the approval of the innovation zone school.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.13(256F,83GA,SF2033) Ongoing review by department.** An innovation zone school shall be reviewed periodically by the department to ensure continuing compliance with the innovation zone school’s contract. At the department’s sole discretion, the department may schedule mandatory meetings with the administrators of the innovation zone school and the administrators of the school’s innovation zone consortium.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.14(256F,83GA,SF2033) Renewal of contract.** After the initial four-year contract for an innovation zone school and at the end of each renewal period thereafter, the local boards that formed the innovation zone consortium shall take affirmative action either to request renewal from the state board of the approval of the consortium’s innovation zone school contract or to dissolve the innovation zone school. If seeking renewal of the contract from the state board, the local boards that formed the innovation zone consortium shall first hold a joint public hearing on the issue of renewal of the contract and shall submit to the department a copy of the minutes of the public hearing showing that a majority of the local board members voted in favor of requesting renewal of the state board’s approval of the consortium’s innovation zone school contract. Any action to request renewal of the contract must specify the number of years, which shall not be more than four years, for which renewal is requested.

An innovation zone consortium must submit a new application to the department if the consortium modifies any of the terms of the original contract.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

**281—68.15(256F,83GA,SF2033) Revocation of contract.**

**68.15(1) Reasons for revocation.** An innovation zone school contract may be revoked by the state board or by the innovation zone consortium that established the school if either the board or the consortium determines that one or more of the following occurred:

*a.* The innovation zone school has failed to meet the provisions set forth in the contract for the operation of the innovation zone school.

b. The innovation zone school has failed to comply with the provisions in Iowa Code chapter 256F as amended by 2010 Iowa Acts, Senate File 2033.

c. The innovation zone school has failed to meet generally accepted accounting principles for public entities.

d. The innovation zone school has failed to demonstrate improvement in student progress in reading, mathematics, and science from that which existed prior to the establishment of the innovation zone school to the present as evidenced by achievement scores on the latest administration of the state assessment for which scores are available, or as evidenced by alternative but equivalent locally determined performance measures including but not limited to additional administrations of the state assessment, portfolios of student work, student performance rubrics, or end-of-course assessments.

**68.15(2) *Revocation by innovation zone consortium.*** An innovation zone consortium considering the revocation of a contract with its innovation zone school shall notify the advisory council, the family units, and the teachers and administrators employed by the innovation zone school at least 60 days prior to the date by which the contract must be renewed but not later than the last day of classes in the school year. The decision of an innovation zone consortium to revoke or fail to renew an innovation zone school contract is subject to appeal under procedures set forth in Iowa Code chapter 290 by an affected student or parent of an affected student who is a minor.

**68.15(3) *Revocation by state board.*** If the state board determines that reason exists under subrule 68.15(1) to revoke the contract for an innovation zone school, the state board shall notify the innovation zone consortium and the advisory council of the consortium of the state board's intention to revoke the contract at least 60 days prior to the revocation of the contract, and the consortium shall assume oversight authority, operational authority, or both oversight and operational authority. The notice shall state the grounds for the proposed action in writing and in reasonable detail. The consortium may request in writing an informal hearing before the state board within 14 days of receipt of notice of revocation of the contract. Upon receiving a timely written request for a hearing, the state board shall give reasonable notice to the consortium of the hearing date. The state board shall conduct an informal hearing before taking final action. Final action to revoke a contract shall be taken in a manner least disruptive to the students enrolled in the innovation zone school. The state board shall take final action to revoke or approve continuation of a contract by the last day of classes in the school year. If the final action to revoke a contract under Iowa Code section 256F.8 as amended by 2010 Iowa Acts, Senate File 2033, section 19, occurs prior to the last day of classes in the school year, an innovation zone school student may enroll in the student's resident district. The decision of the state board to revoke a contract under Iowa Code section 256F.8 as amended by 2010 Iowa Acts, Senate File 2033, section 19, is solely within the discretion of the state board and is final.

[ARC 9264B, IAB 12/15/10, effective 1/19/11]

These rules are intended to implement Iowa Code chapter 256F as amended by 2010 Iowa Acts, Senate File 2033.

[Filed emergency 9/12/03—published 10/1/03, effective 9/12/03]

[Filed 11/19/03, Notice 9/17/03—published 12/10/03, effective 1/14/04]

[Filed 4/3/08, Notice 2/27/08—published 4/23/08, effective 5/28/08]

[Filed ARC 9264B (Notice ARC 9014B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

CHAPTER 83  
TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I  
GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND  
TEACHER QUALITY PROGRAMS

**281—83.1(284,284A) Purposes.** The goal of the teacher quality program is to enhance the learning, achievement, and performance of all students through the recruitment, support, and retention of quality Iowa teachers. The program shall contain specific strategies that include a mentoring and induction program for beginning teachers, teacher evaluations, and district and building support for professional development that includes best practice aimed at increasing student achievement.

The goal of the administrator quality program is to promote high student achievement and enhanced educator quality. The program consists of mentoring and induction programs that provide support for administrators, professional development designed to directly support best practice for leadership, and evaluation of administrators against the Iowa standards for school administrators.

**281—83.2(284,284A) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Administrator”* or *“school leader”* means an individual holding a professional administrator license issued under Iowa Code chapter 272, who is employed in a school district administrative position by a school district or area education agency pursuant to a contract issued by a board of directors under Iowa Code section 279.23. An administrator may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time administrator for the portion of time that the individual is employed in an administrative position.

*“Beginning administrator”* means an individual serving under an administrator license, issued by the board of educational examiners under Iowa Code chapter 272, who is assuming a position as a school district principal or superintendent for the first time.

*“Beginning teacher”* means an individual serving under an initial, Class A, exchange, or intern license, issued by the board of educational examiners under Iowa Code chapter 272, who is assuming a position as a teacher. For purposes of the beginning teacher mentoring and induction program created pursuant to Iowa Code section 284.5, “beginning teacher” also includes preschool teachers who are licensed by the board of educational examiners under Iowa Code chapter 272 and are employed by a school district or area education agency.

*“Comprehensive evaluation”* means, with respect to a beginning teacher, a summative evaluation of a beginning teacher conducted by an evaluator for purposes of determining a beginning teacher’s level of competency relative to the Iowa teaching standards and for recommendation for licensure based upon models developed pursuant to Iowa Code section 256.9, subsection 50, and to determine whether the teacher’s practice meets the school district expectations for a career teacher. With respect to a beginning administrator, “comprehensive evaluation” means a summative evaluation of a beginning administrator conducted by an evaluator in accordance with 2007 Iowa Code Supplement section 284A.3 for purposes of determining a beginning administrator’s level of competency for recommendation for licensure based on the Iowa standards for school administrators adopted pursuant to 2007 Iowa Code Supplement section 256.7(27).

*“Department”* means the department of education.

*“Director”* means the director of the department of education.

*“District facilitator”* means an individual in Iowa who serves as a coordinator for a district mentoring and induction program.

*“Evaluator”* means an administrator or other practitioner who successfully completes an evaluator training program pursuant to Iowa Code section 284.10.

*“Intensive assistance”* means the provision of organizational support and technical assistance to teachers, other than beginning teachers, for the remediation of identified teaching and classroom management concerns for a period not to exceed 12 months.

“*Leadership standards*” are synonymous with the Iowa standards for school administrators adopted pursuant to 2007 Iowa Code Supplement section 256.7(27).

“*Mentor*” means, with respect to a beginning teacher, an individual employed by a school district or area education agency as a teacher or a retired teacher who holds a valid license issued under Iowa Code chapter 272. The individual must have a record of four years of successful teaching practice, must be employed on a nonprobationary basis, and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning teachers. With respect to a beginning administrator, “mentor” means an individual employed by a school district or area education agency as a school district administrator or a retired administrator who holds a valid license issued under Iowa Code chapter 272. The individual must have a record of four years of successful administrative experience and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning administrators.

“*Performance review*” means a summative evaluation of a teacher other than a beginning teacher and used to determine whether the teacher’s practice meets school district expectations and the Iowa teaching standards, and to determine whether the teacher’s practice meets school district expectations for career advancement in accordance with Iowa Code section 284.7.

“*School board*” means the board of directors of a school district, a collaboration of boards of directors of school districts, or the board of directors of an area education agency, as the context requires.

“*School district*” means a public school district.

“*State board*” means the state board of education.

“*Teacher*” means an individual holding a practitioner’s license or a statement of professional recognition issued under Iowa Code chapter 272, who is employed in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under Iowa Code section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

[ARC 7785B, IAB 5/20/09, effective 6/24/09; ARC 9265B, IAB 12/15/10, effective 1/19/11]

DIVISION II  
SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

**281—83.3(284) Mentoring and induction program for beginning teachers.**

**83.3(1) Purpose.** The beginning teacher mentoring and induction program is created to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts and area education agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers.

**83.3(2) Participation.** All school districts and area education agencies shall provide a beginning teacher mentoring and induction program for all beginning teachers. A beginning teacher, as defined in this chapter, shall be informed by the school district or area education agency, prior to the beginning teacher’s participation in a mentoring and induction program, of the Iowa teaching standards and criteria upon which the beginning teacher shall be evaluated and of the evaluation process utilized by the school district or area education agency. The beginning teacher shall be comprehensively evaluated by the end of the beginning teacher’s second year of teaching to determine whether the teacher meets expectations to move to the career level. The school district or area education agency shall recommend for a standard license a beginning teacher who has successfully met the Iowa teaching standards as determined by a comprehensive evaluation.

If a beginning teacher who is participating in a mentoring and induction program leaves the employ of a school district or area education agency prior to completion of the program, the school district or area education agency subsequently hiring the beginning teacher shall credit the beginning teacher with the time earned in a program prior to the subsequent hiring. If the general assembly appropriates moneys for purposes of Iowa Code section 284.5, a school district or area education agency is eligible to receive state assistance for up to two years for each beginning teacher the school district or area education agency employs who was formerly employed in an accredited nonpublic school or in another state as a

first-year teacher. The school district or area education agency employing the teacher shall determine the conditions and requirements of a teacher participating in a mentoring and induction program.

A school district or area education agency may offer a teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district or area education agency determines that the teacher is likely to successfully complete the mentoring and induction program by meeting the Iowa teaching standards by the end of the third year of eligibility. The third year of eligibility is offered at the employing district's or area education agency's expense. A teacher granted a third year of eligibility shall, in cooperation with the teacher's evaluator, develop a plan to meet the Iowa teaching standards and district or area education agency career expectations. This plan will be implemented by the teacher and supported through the district's or area education agency's mentoring and induction program. The school district or area education agency shall notify the board of educational examiners that the teacher will participate in a third year of the school district's program. The teacher shall undergo a comprehensive evaluation at the end of the third year.

For purposes of comprehensive evaluations for beginning teachers, including the comprehensive evaluation required for the beginning teacher to progress to career teacher, the Iowa teaching standards and criteria shall be as described in rule 281—83.4(284). A school district or area education agency shall participate in state program evaluations.

**83.3(3) Plan.** Each school district or area education agency shall develop a sequential two-year beginning teacher mentoring and induction plan based on the Iowa teaching standards. The plan shall be included in the school district's comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7, subsection 21. A school district or area education agency shall have the board adopt a beginning teacher mentoring and induction program plan and written procedures for the program. At the board's discretion, the district or area education agency may choose to use or revise the model plan provided by the area education agency or develop a plan locally. The components of a district's or area education agency's beginning teacher mentoring and induction program shall include, but are not limited to, the following:

- a. Goals for the program.
- b. A process for the selection of mentors.
- c. A mentor training process which shall:
  - (1) Be consistent with effective staff development practices and adult professional needs to include skills needed for teaching, demonstration, and coaching.
  - (2) Address mentor needs, indicating a clear understanding of the role of the mentor.
  - (3) Result in the mentor's understanding of the personal and professional needs of new teachers.
  - (4) Provide the mentor with an understanding of the district expectations for beginning teacher competencies based on the Iowa teaching standards.
  - (5) Facilitate the mentor's ability to provide guidance and support to new teachers.
- d. A supportive organizational structure for beginning teachers which shall include:
  - (1) Activities that provide access and opportunities for interaction between mentor and beginning teacher that at a minimum provide:
    1. Released time for mentors and beginning teachers to plan;
    2. The demonstration of classroom practices;
    3. The observation of teaching; and
    4. Feedback.
  - (2) Selection process for who will be in the mentor/beginning teacher partnership.
  - (3) Roles and responsibilities of the mentor.
- e. Evaluation process for the program, which shall include:
  - (1) An evaluation of the district and area education agency program goals,
  - (2) An evaluation process that provides for the minor and major program revisions, and
  - (3) A process for how information about the program will be provided to interested stakeholders.
- f. The process for dissolving mentor and beginning teacher partnerships.
- g. A plan that reflects the needs of the beginning teacher employed by the district or area education agency.

*h.* Activities designed to support beginning teachers by:

- (1) Developing and enhancing competencies for the Iowa teaching standards, and
- (2) Providing research-based instructional strategies.

**83.3(4) Budget.** Funds received by a school district or area education agency from the beginning teacher mentoring and induction program shall be used for any or all of the following purposes:

*a.* To pay mentors as they implement the plan. A mentor in a beginning teacher induction program approved under this chapter shall be eligible for an award of \$500 per semester for full participation in the program. A district or area education agency may use local dollars to increase the mentor award.

*b.* To pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system for a pension and annuity retirement system established under Iowa Code chapter 294 for such amounts paid by the district or area education agency.

These funds are miscellaneous funds or are considered encumbered. A school district or area education agency shall maintain a separate listing within its budget for payments received and expenditures made for this program. Funds that remain unencumbered or unobligated at the end of the fiscal year will not revert, but will remain available for expenditure for the purposes of the program until the close of the succeeding fiscal year.

**281—83.4(284) Iowa teaching standards and criteria.** The Iowa teaching standards and supporting criteria represent a set of knowledge and skills that reflects the best evidence available regarding effective teaching. The purpose of the standards and supporting criteria is to provide Iowa school districts and area education agencies with a consistent representation of the complexity and the possibilities of quality teaching. The standards shall serve as the basis for comprehensive evaluations of teachers and as a basis for professional development plans. Each standard with supporting criteria is outlined as follows:

**83.4(1)** Demonstrates ability to enhance academic performance and support for and implementation of the school district's student achievement goals.

*a.* The teacher:

- (1) Provides multiple forms of evidence of student learning and growth to students, families, and staff.
  - (2) Implements strategies supporting student, building, and district goals.
  - (3) Uses student performance data as a guide for decision making.
  - (4) Accepts and demonstrates responsibility for creating a classroom culture that supports the learning of every student.
  - (5) Creates an environment of mutual respect, rapport, and fairness.
  - (6) Participates in and contributes to a school culture that focuses on improved student learning.
  - (7) Communicates with students, families, colleagues, and communities effectively and accurately.
- b.* Alternative criteria for area education agency staff who meet the definition of "teacher" herein.

The staff member:

- (1) Uses knowledge and understanding of the area education agency's mission, goals, and strategic priorities to provide services that enhance academic performance.
- (2) Understands and uses knowledge of area education agency and district goals and data to provide services that enhance academic performance.
- (3) Participates in and contributes to a positive learning culture.
- (4) Communicates with students, families, colleagues, and communities effectively and accurately.
- (5) Uses area education agency, district, and student data as a guide for decision making.

**83.4(2)** Demonstrates competence in content knowledge appropriate to the teaching position.

*a.* The teacher:

- (1) Understands and uses key concepts, underlying themes, relationships, and different perspectives related to the content area.
- (2) Uses knowledge of student development to make learning experiences in the content area meaningful and accessible for every student.
- (3) Relates ideas and information within and across content areas.
- (4) Understands and uses instructional strategies that are appropriate to the content area.

*b.* Alternative criteria for area education agency staff who meet the definition of “teacher” herein.  
The staff member:

- (1) Understands, communicates, and uses key concepts and best practice in fulfillment of area education agency roles and responsibilities.
- (2) Uses knowledge of child and adolescent development and of adult learning to make interventions and strategies meaningful, relevant, and accessible.
- (3) Relates professional knowledge and services within and across multiple content and discipline areas.
- (4) Understands and supports strategies and interventions that are best practice across content and discipline areas.

**83.4(3)** Demonstrates competence in planning and preparing for instruction.

*a.* The teacher:

- (1) Uses student achievement data, local standards, and the district curriculum in planning for instruction.
- (2) Sets and communicates high expectations for social, behavioral, and academic success of all students.
- (3) Uses students’ developmental needs, backgrounds, and interests in planning for instruction.
- (4) Selects strategies to engage all students in learning.
- (5) Uses available resources, including technologies, in the development and sequencing of instruction.

*b.* Alternative criteria for area education agency staff who meet the definition of “teacher” herein.  
The staff member:

- (1) Demonstrates the ability to organize and prioritize time, resources, and responsibilities.
- (2) Demonstrates the ability to individually and collaboratively plan and prepare professional services that address the range of district, teacher, parent, and student needs.
- (3) Uses district and student data to develop goals and interventions.
- (4) Demonstrates the flexibility to plan for professional services based on changing conditions of the work context and environment.
- (5) Uses available resources, including technology, to plan and develop professional services.

**83.4(4)** Uses strategies to deliver instruction that meets the multiple learning needs of students.

*a.* The teacher:

- (1) Aligns classroom instruction with local standards and district curriculum.
- (2) Uses research-based instructional strategies that address the full range of cognitive levels.
- (3) Demonstrates flexibility and responsiveness in adjusting instruction to meet student needs.
- (4) Engages students in varied experiences that meet diverse needs and promote social, emotional, and academic growth.
- (5) Connects students’ prior knowledge, life experiences, and interests in the instructional process.
- (6) Uses available resources, including technologies, in the delivery of instruction.

*b.* Alternative criteria for area education agency staff who meet the definition of “teacher” herein.  
The staff member:

- (1) Aligns service delivery to district, teacher, parent, and student needs.
- (2) Provides consultation, instruction, interventions, and strategies that align with learner needs.
- (3) Demonstrates flexibility and responsiveness in adjusting services to meet diverse learner needs.
- (4) Uses and supports research-based and evidence-based practices to meet learner needs.
- (5) Uses available resources, including technology, to provide professional services that meet learner needs.

**83.4(5)** Uses a variety of methods to monitor student learning.

*a.* The teacher:

- (1) Aligns classroom assessment with instruction.
- (2) Communicates assessment criteria and standards to all students and parents.
- (3) Understands and uses the results of multiple assessments to guide planning and instruction.
- (4) Guides students in goal setting and assessing their own learning.

- (5) Provides substantive, timely, and constructive feedback to students and parents.
- (6) Works with other staff and building and district leadership in analysis of student progress.
- b.* Alternative criteria for area education agency staff who meet the definition of “teacher” herein.

The staff member:

- (1) Uses appropriate assessment, data collection, and data analysis methods that support alignment of services with learner needs.
  - (2) Works collaboratively within the learning community to establish measurable goals and to identify formative and summative methods to monitor progress and the quality of implementation.
  - (3) Communicates the rationale and criteria of assessment and monitoring methods.
  - (4) Elicits and provides timely and quality feedback on assessment and monitoring.
- 83.4(6)** Demonstrates competence in classroom management.

*a.* The teacher:

- (1) Creates a learning community that encourages positive social interaction, active engagement, and self-regulation for every student.
  - (2) Establishes, communicates, models, and maintains standards of responsible student behavior.
  - (3) Develops and implements classroom procedures and routines that support high expectations for student learning.
  - (4) Uses instructional time effectively to maximize student achievement.
  - (5) Creates a safe and purposeful learning environment.
- b.* Alternative criteria for area education agency staff who meet the definition of “teacher” herein.

The staff member:

- (1) Models respectful dialogue and behaviors within and across job responsibilities.
- (2) Promotes and maintains a positive, safe, and productive environment.
- (3) Works collaboratively and is flexible.
- (4) Communicates accurately and effectively.

**83.4(7)** Engages in professional growth.

*a.* The teacher:

- (1) Demonstrates habits and skills of continuous inquiry and learning.
- (2) Works collaboratively to improve professional practice and student learning.
- (3) Applies research, knowledge, and skills from professional development opportunities to improve practice.
- (4) Establishes and implements professional development plans based upon the teacher’s needs aligned to the Iowa teaching standards and district/building student achievement goals.
- (5) Provides an analysis of student learning and growth based on teacher-created tests and authentic measures as well as any standardized and districtwide tests.

*b.* Alternative criteria for area education agency staff who meet the definition of “teacher” herein.

The staff member:

- (1) Demonstrates habits and skills of continuous inquiry and learning.
- (2) Works collaboratively to improve professional practices.
- (3) Applies and shares research, knowledge, and skills from professional development.
- (4) Establishes and implements professional development plans aligned to area education agency, district, and student learning goals.

**83.4(8)** Fulfills professional responsibilities established by the school district.

*a.* The teacher:

- (1) Adheres to board policies, district procedures, and contractual obligations.
- (2) Demonstrates professional and ethical conduct as defined by state law and district policy.
- (3) Contributes to efforts to achieve district and building goals.
- (4) Demonstrates an understanding of and respect for all learners and staff.
- (5) Collaborates with students, families, colleagues, and communities to enhance student learning.

*b.* Alternative criteria for area education agency staff who meet the definition of “teacher” herein.

The staff member:

- (1) Adheres to board policies, area education agency procedures, federal and state rules, and contractual obligations.
- (2) Demonstrates professional and ethical conduct as defined by state law and area education agency policies.
- (3) Contributes to efforts to achieve area education agency goals.
- (4) Demonstrates an understanding of and respect for all learners.
- (5) Collaborates with all learners.

**83.4(9)** The school board shall provide comprehensive evaluations for beginning teachers using the Iowa teaching standards and criteria listed in rule 281—83.4(284). The school board, for the purposes of performance reviews for teachers other than beginning teachers, shall provide evaluations that contain, at a minimum, the Iowa teaching standards and criteria listed in rule 281—83.4(284). A local school board and its certified bargaining representative may negotiate, pursuant to Iowa Code chapter 20, additional teaching standards and criteria for use in a performance review. In any school district or area education agency where there is no certified bargaining unit, additional standards and criteria may be determined by the board.

[ARC 8808B, IAB 6/2/10, effective 7/7/10]

**281—83.5(284) Evaluator approval training.** The department shall approve eligible providers and their programs to conduct evaluator training. Only individuals certified through programs approved by the department shall qualify for evaluator certification by the board of educational examiners. A beginning teacher who has evaluator certification from the board of educational examiners shall not evaluate other teachers until the beginning teacher is no longer a probationary employee. Approved evaluator training programs shall be designed to align with the Iowa teaching standards and criteria, provide evaluators with the skills to conduct comprehensive evaluations and performance reviews as required by Iowa Code chapter 284, and provide for the evaluation of the progress made on individual professional development plans. This training for evaluators shall incorporate components of theory, demonstration, practice, and application of evaluation knowledge and skills.

**83.5(1) *Application requirements for providers of evaluator approval training.*** Approved applications for the provision of evaluator approval training shall include, but are not limited to, the following components:

- a.* A curriculum that addresses participant skill development in the areas of:
  - (1) The identification of quality instruction and practices based on the Iowa teaching standards and criteria;
  - (2) The use of multiple forms of data collection for identifying and supporting performance and development;
  - (3) The understanding and development of conferencing and feedback skills; and
  - (4) The development of skills in data-based decision making.
- b.* Demonstration that the evaluator approval training process design provides training as specified in this rule.
- c.* A description of the process used to deliver the training to participants.
- d.* A description of the procedures developed to certify the skill attainment of the evaluator being trained.
- e.* A budget.
- f.* Staff qualifications.
- g.* Evidence of the provider's expertise in evaluation design and training processes.
- h.* Provisions for leadership to support and implement ongoing professional development focused on student learning.
- i.* A process that evaluates the effectiveness of the implementation of the training process and demonstrates that the trainees have attained the knowledge and skills as described in paragraph "a." This evaluation shall be conducted on an annual basis and submitted to the department.

**83.5(2) *Process used for the approval of evaluator approval training program applications.*** Eligible providers shall submit an application on forms prescribed by the department. Applications for new

providers will be accepted and reviewed by the department by July 1 of each year. A review panel shall be convened to review applications for evaluator approval training programs based on the requirements listed in subrule 83.5(1). The panel shall recommend for approval and the department shall approve the evaluator approval training programs that meet the requirements listed in subrule 83.5(1). Applicants shall be notified of their status within 30 days of the application deadline. An approved list of private providers shall be maintained on the department Web site with an annual notification to school districts and area education agencies of the Web site address that contains provider information.

Eligible providers may be public or private entities, including, but not limited to, school districts, consortia, and other public or private entities including professional organizations. Applicants shall meet all applicable federal, state, and local health, safety and civil rights laws. Higher education administrative practitioner preparation institutions shall meet the review process through the state board approval and accreditation process for these institutions.

**83.5(3) Local teacher evaluation plans.** Local districts and area education agencies shall develop and implement a teacher evaluation plan that contains the following components:

- a. The use of the Iowa teaching standards and criteria;
- b. Provisions for the comprehensive evaluation of beginning teachers that include a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.4(284) and the use of the comprehensive evaluation instrument developed by the department;
- c. Provisions for the performance reviews of teachers other than beginning teachers once every three years that include, at a minimum, classroom observation of the teacher, a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.4(284) and additional standards and criteria if established under subrule 83.4(9), a review of the implementation of the teacher's individual professional development plan, and supporting documentation from other evaluators, teachers, parents, and students;
- d. Provisions for individual professional development plans for teachers other than beginning teachers;
- e. Provisions for an intensive assistance program as provided in Iowa Code section 284.8 that addresses the remediation defined under subrules 83.4(1) through 83.4(8) or any other standards or criteria established by a collective bargaining agreement.

A local school board and its certified bargaining representative shall negotiate, pursuant to Iowa Code chapter 20, evaluation and grievance procedures for beginning teachers and for teachers other than beginning teachers that are not in conflict with Iowa Code chapter 284. If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under subrules 83.4(1) through 83.4(8) or any other standards or criteria established in the collective bargaining agreement, the evaluator shall, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are subject to negotiation or grievance procedures established pursuant to Iowa Code chapter 20.

[ARC 7785B, IAB 5/20/09, effective 6/24/09]

### **281—83.6(284) Professional development for teachers.**

**83.6(1) Individual teacher professional development plan.** Each school district and area education agency shall support the development and implementation of the individual teacher professional development plan for teachers other than beginning teachers. The purpose of the individual plan is to promote individual and collective professional development. At a minimum, the goals for an individual teacher professional development plan must be based on the relevant Iowa teaching standards that support the student achievement goals of the teacher's classroom or classrooms, attendance center and school district or area education agency, as appropriate, as outlined in the comprehensive school improvement plan, and the needs of the teacher. The goals shall go beyond those required under the attendance center professional development plan described in subrule 83.6(2), paragraph "c." The learning opportunities provided to meet the goals of the individual teacher plan include individual study and collaborative study of district-determined or area education agency-determined content to

the extent possible. The individual plan shall be developed by the teacher in collaboration with the teacher's evaluator. An annual meeting shall be held between the teacher's evaluator and the teacher to review the goals and refine the plan.

**83.6(2) Professional development for school districts and area education agencies.** The following requirements shall apply to professional development for school districts and area education agencies.

*a. District or area education agency professional development plan.* Each school district shall incorporate the district professional development plan into its comprehensive school improvement plan pursuant to Iowa Code subsection 284.6(3). Each area education agency shall develop a professional development plan for the agency as a whole and shall incorporate the same into its comprehensive improvement plan pursuant to rule 281—72.9(273). The district or area education agency professional development plan shall be a long-term plan designed and implemented to increase student achievement and shall include all site and district or area education agency personnel responsible for instruction. The district or area education agency professional development plan shall contain, but not be limited to, the following:

(1) Documentation that the professional development is based on student data and other needs assessment; aligned with district student achievement goals; and focused on instruction, curriculum, and assessment.

(2) Documentation that professional development learning opportunities are research-based and aligned with the Iowa teaching standards and criteria.

(3) Identification of the approved professional development provider(s).

(4) A description of a process that includes theory, demonstration, practice, observation, collaboration, and the study of implementation.

(5) A description of a program evaluation design for formative and summative evaluation processes.

*b. Professional development standards.* Implementation of a school district's or area education agency's professional development plan shall meet the following standards:

(1) Align with the Iowa teaching standards and criteria;

(2) Deliver research-based instructional strategies aligned with the student achievement goals established by the district;

(3) Deliver professional development training and learning opportunities that are targeted at instructional improvement and designed with the following components:

1. Student achievement data and analysis;

2. Theory;

3. Classroom demonstration and practice;

4. Observation and reflection;

5. Teacher collaboration and study of implementation; and

6. Integration of instructional technology, if applicable;

(4) Include an evaluation component of professional development that documents the improvement in instructional practice and the effect on student learning; and

(5) Support the professional development needs of district licensed staff responsible for instruction.

*c. Attendance center professional development plans.* Each attendance center within a school district shall develop an attendance center professional development plan as a means of promoting group professional development. An attendance center professional development plan shall further the needs of the teachers in the attendance center and shall enhance the student achievement goals of the attendance center and the goals of the district.

*d. Individual professional development plans.* The school district and area education agency shall support the development and implementation of the individual teacher professional development plan for each teacher as outlined in subrule 83.6(1). Each individual teacher professional development plan shall align to the fullest extent possible with the district professional development plan.

*e. Beginning teacher mentoring and induction.* The school district shall support the development and implementation of a beginning teacher mentoring and induction plan as outlined in subrule 83.3(3). The district beginning teacher mentoring and induction plan shall be included in the comprehensive

school improvement plan submitted pursuant to Iowa Code section 256.7(21), paragraph “a,” and shall align with the district professional development plan described in subrule 83.6(2), paragraph “a.”

*f. Organizational support for professional development.* The school district shall provide resources and support for the district professional development plan, including professional development provider(s), time for collaborative work of staff, budget, policies, and procedures.

**83.6(3) Professional development provider requirements.**

*a.* A provider may be a school district, an area education agency, a higher education institution, a public or private entity including a professional organization that provides long-term, ongoing support of the district’s or area education agency’s professional development plan, or a consortium of any of the foregoing. An educational organization or program with specific professional development accreditation or approval from the department is an approved provider.

*b.* Provider approval procedures must be followed to approve providers identified in the district’s or area education agency’s professional development plan that are not currently accredited or approved through state accreditation procedures. The potential provider must submit to the school district a written application that provides the following documentation:

(1) How the provider will deliver technical assistance that meets the Iowa professional development standards provided in subrule 83.6(2), paragraph “b.”

(2) How the provider intends to assist the local district in designing, implementing, and evaluating professional development that meets the requirements established in subrule 83.6(2), paragraph “a.”

(3) A description of the qualifications of the provider.

(4) Evidence of the provider’s expertise in professional development.

(5) A budget.

(6) Procedures for evaluating the effectiveness of the technical assistance delivered by the provider.

[ARC 8808B, IAB 6/2/10, effective 7/7/10]

**281—83.7(284) Teacher quality committees.** Each school district and area education agency shall create a teacher quality committee pursuant to 2007 Iowa Code Supplement section 284.4. The committee is subject to the requirements of the Iowa open meetings law (Iowa Code chapter 21). To the extent possible, committee membership shall have balanced representation with regard to gender. The committee shall do all of the following:

1. Monitor the implementation of the requirements of statutes and administrative code provisions relating to this chapter, including requirements that affect any agreement negotiated pursuant to Iowa Code chapter 20.

2. Monitor the evaluation requirements of this chapter to ensure evaluations are conducted in a fair and consistent manner throughout the school district or agency. In addition to any negotiated evaluation procedures, develop model evidence for the Iowa teaching standards and criteria. The model evidence will minimize paperwork and focus on teacher improvement. The model evidence will determine which standards and criteria can be met through observation and which evidence meets multiple standards and criteria.

3. Determine, following the adoption of the Iowa professional development model by the state board of education, the use and distribution of the professional development funds distributed to the school district or agency as provided in 2007 Iowa Code Supplement section 284.13, subsection 1, paragraph “d,” based upon school district or agency, attendance center, and individual teacher professional development plans.

4. Monitor the professional development in each attendance center to ensure that the professional development meets school district or agency, attendance center, and individual teacher professional development plans.

5. Ensure the agreement negotiated pursuant to Iowa Code chapter 20 determines the compensation for teachers on the committee for work responsibilities required beyond the normal workday.

6. Make recommendations to the school board and the certified bargaining representative regarding the expenditures of market factor incentives.

DIVISION III  
SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

**281—83.8(284A) Administrator quality program.** An administrator quality program is established to promote high student achievement and enhanced educator quality. The program shall consist of the following four major components:

1. Adherence to the Iowa school leadership standards and criteria as the minimum basis for evaluations of administrators and as the basis for professional development plans for administrators.
2. Mentoring and induction programs that provide support for administrators in accordance with 2007 Iowa Code Supplement section 284A.5.
3. Professional development designed to directly support best practice for leadership.
4. Evaluation of administrators against the Iowa standards for school administrators.

**281—83.9(284A) Mentoring and induction program for administrators.**

**83.9(1) Purpose.** A beginning administrator mentoring and induction program is created to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

**83.9(2) District participation.** Each school board shall establish an administrator mentoring program for all beginning administrators. The school board may adopt the model program developed by the department or develop the program locally. Each school board's beginning administrator mentoring and induction program shall, at a minimum, provide for one year of programming to support the Iowa standards for school administrators adopted pursuant to 2007 Iowa Code Supplement section 256.7(27), and to support beginning administrators' professional and personal needs. Each school board shall include in the program the mentor selection process, supports for beginning administrators, and the organizational and collaborative structures. Each district must also provide the budget, establish a process for sustainability of the program, and establish a process for program evaluation. The school board employing an administrator shall determine the conditions and requirements of an administrator participating in a program established pursuant to this rule. A school board shall include its plan in the school district's comprehensive school improvement plan.

**83.9(3) Recommendation for licensure.** By the end of a beginning administrator's first year of employment, the beginning administrator shall be comprehensively evaluated to determine if the administrator meets expectations to move to a professional administrator license. The school district or area education agency shall recommend the beginning administrator for a professional administrator license to the board of educational examiners upon the administrator's completion of a successful comprehensive evaluation. The evaluation process must include documented evidence of the administrator's competence in meeting the Iowa leadership standards. A school district or area education agency may allow a beginning administrator a second year to demonstrate competence in the Iowa standards for school administrators if, after conducting a comprehensive evaluation, the school district or area education agency determines that the administrator is likely to successfully demonstrate competence in the Iowa standards for school administrators by the end of the second year. Upon notification by the school district or area education agency, the board of educational examiners shall grant a beginning administrator who has been allowed a second year to demonstrate competence a one-year extension of the beginning administrator's initial license. An administrator granted a second year to demonstrate competence shall undergo a comprehensive evaluation at the end of the second year.

**281—83.10(284A) Iowa school leadership standards and criteria for administrators.** The Iowa school leadership standards and criteria represent a set of knowledge and skills that reflects the best evidence available regarding effective leadership. The standards and criteria provide school districts with a consistent basis for evaluations of administrators and serve as the basis for professional development plans for administrators. A local school board may establish additional administrator standards and related criteria, but shall at a minimum utilize the following standards, with supporting

criteria listed after each, in evaluating its school leaders and adopting individual professional development plans therefor:

**83.10(1) *Shared vision.*** An educational leader promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community. The administrator:

- a. In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs.
- b. Uses research and best practice in improving the educational program.
- c. Articulates and promotes high expectations for teaching and learning.
- d. Aligns and implements the educational program, plans, actions, and resources with the district's vision and goals.
- e. Provides leadership for major initiatives and efforts to effectuate change.
- f. Communicates effectively with various stakeholders regarding progress with school improvement plan goals.

**83.10(2) *Culture of learning.*** An educational leader promotes the success of all students by advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional development. The administrator:

- a. Provides leadership for assessing, developing, and improving the climate and culture of learning.
- b. Systematically and fairly recognizes and celebrates accomplishments of staff and students.
- c. Provides leadership, encouragement, opportunities, and structure for staff to continually design more effective teaching and learning experiences for all students.
- d. Monitors and evaluates the effectiveness of curriculum, instruction, and assessment.
- e. Evaluates staff and provides ongoing coaching for improvement.
- f. Ensures that staff members have professional development that directly enhances their performance and improves student learning.
- g. Uses current research and theory about effective schools and leadership to develop and revise the administrator's professional growth plan.
- h. Promotes collaboration with all stakeholders.
- i. Is easily accessible and approachable to all stakeholders.
- j. Is highly visible and engaged in the school community.
- k. Articulates the desired school culture and shows evidence about how it is reinforced.

**83.10(3) *Management.*** An educational leader promotes the success of all students by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment. The administrator:

- a. Complies with state and federal mandates and local school board policies.
- b. Recruits, selects, inducts, and retains staff to support quality instruction.
- c. Addresses current and potential issues in a timely manner.
- d. Manages fiscal and physical resources responsibly, efficiently, and effectively.
- e. Protects instructional time by designing and managing operational procedures to maximize learning.
- f. Communicates effectively with both internal and external audiences about the operations of the school.

**83.10(4) *Family and community.*** An educational leader promotes the success of all students by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources. The administrator:

- a. Engages family and community by promoting shared responsibility for student learning and support of the educational system.
- b. Promotes and supports a structure for family and community involvement in the educational system.
- c. Facilitates the connections of students and families to the health and social services that support a focus on learning.

*d.* Collaboratively establishes a culture that welcomes and honors families and community and seeks ways to engage them in student learning.

**83.10(5) Ethics.** An educational leader promotes the success of all students by acting with integrity and fairness and in an ethical manner. The administrator:

- a.* Demonstrates ethical and professional behavior.
- b.* Demonstrates values, beliefs, and attitudes that inspire others to higher levels of performance.
- c.* Fosters and maintains caring professional relationships with staff.
- d.* Demonstrates appreciation for and sensitivity to diversity in the school community.
- e.* Is respectful of divergent opinions.

**83.10(6) Societal context.** An educational leader promotes the success of all students by understanding the profile of the community and by responding to and influencing the larger political, social, economic, legal, and cultural context. The administrator:

- a.* Collaborates with service providers and other decision makers to improve teaching and learning.
- b.* Advocates for the welfare of all members of the learning community.
- c.* Designs and implements appropriate strategies to reach desired goals.

**281—83.11(284A) Evaluation.** The board of directors of a school district shall conduct an evaluation of an administrator who holds a professional administrator license issued under Iowa Code chapter 272 at least once every three years for purposes of assisting the administrator in making continuous improvements, documenting continued competence in the Iowa standards for school administrators adopted pursuant to 2007 Iowa Code Supplement section 256.7(27), and determining whether the administrator's practice meets the board's expectations for the school district. The review shall include, at a minimum, an assessment of the administrator's competence in meeting the Iowa standards for school administrators and the goals of the administrator's individual professional development plan, including supporting documentation or artifacts aligned to the Iowa standards for school administrators and the individual administrator's professional development plan.

**281—83.12(284A) Professional development of administrators.**

**83.12(1) Responsibility of district.** Each school district shall be responsible for the provision of professional growth programming for individuals employed in a school district administrative position by the school district or area education agency as deemed appropriate by the board of directors of the school district or area education agency. School districts may collaborate with other educational stakeholders, including other school districts, area education agencies, professional organizations, higher education institutions, and private providers, regarding the provision of professional development for school district administrators. Professional development programming for school district administrators may include support that meets the individual administrator's professional development needs as aligned to the Iowa standards for school administrators adopted pursuant to 2007 Iowa Code Supplement section 256.7(27), and that meets individual administrator professional development plans.

**83.12(2) Individual plans.** In cooperation with the administrator's evaluator, an administrator who has a standard administrator's license issued by the board of educational examiners pursuant to Iowa Code chapter 272 and is employed by a school district or area education agency in a school district administrative position shall develop an individual administrator professional development plan. The purpose of the plan is to promote individual and group professional development. The individual plan shall be based, at a minimum, on the needs of the administrator. The individual plan shall be aligned, as appropriate, to the Iowa standards for school administrators adopted pursuant to 2007 Iowa Code Supplement section 256.7(27), and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.

**83.12(3) Role of evaluator.** The administrator's evaluator shall meet annually as provided in Iowa Code section 279.23A with the administrator to review progress in meeting the goals in the administrator's individual professional development plan. The purpose of the meeting shall be to review collaborative work with other staff on student achievement goals and to modify as necessary the administrator's individual professional development plan to reflect the individual administrator's

and the school district's needs and the administrator's progress in meeting the goals in the plan. The administrator shall provide evidence of progress toward meeting the goals. Modifications to the plan may be made jointly by the administrator and the administrator's supervisor, or the supervisor may adjust the plan. Any changes in the plan made unilaterally by a supervisor must be clearly documented for the administrator.

These rules are intended to implement Iowa Code chapters 284 and 284A as amended by 2007 Iowa Acts, chapter 108.

[Filed emergency 8/16/99—published 9/8/99, effective 8/20/99]

[Filed 10/21/99, Notice 9/8/99—published 11/17/99, effective 12/22/99]

[Filed 8/4/00, Notice 6/28/00—published 8/23/00, effective 9/27/00]

[Filed 8/10/01, Notice 6/27/01—published 9/5/01, effective 10/10/01]

[Filed 5/9/02, Notice 2/6/02—published 5/29/02, effective 7/3/02]

[Filed 3/14/03, Notice 2/5/03—published 4/2/03, effective 5/7/03]

[Filed 1/16/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]

[Filed 2/8/08, Notice 12/19/07—published 2/27/08, effective 4/2/08]

[Filed ARC 7785B (Notice ARC 7489B, IAB 1/14/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 8808B (Notice ARC 8509B, IAB 2/10/10), IAB 6/2/10, effective 7/7/10]

[Filed ARC 9265B (Notice ARC 9015B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

CHAPTER 97  
SUPPLEMENTARY WEIGHTING

**281—97.1(257) Definitions.** For the purpose of this chapter, the following definitions apply.

*“Actual enrollment”* shall mean the enrollment determined annually on October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, pursuant to Iowa Code section 257.6.

*“Career academy”* shall mean a program of study as defined in 281—Chapter 47. A course offered by a career academy shall not qualify as a regional academy course. A career academy course may qualify as a concurrent enrollment course if it meets the requirements of Iowa Code section 261E.8.

*“Class”* shall mean a course for academic credit which applies toward a high school or community college diploma.

*“Enrolled”* shall mean that a student has registered with the school district and is taking part in the educational program.

*“Fraction of a school year at the elementary level”* shall mean the product of the minutes per day of class times the number of days per year the class meets divided by the product of the total number of minutes in a school day times the total number of days in a school year.

*“Fraction of a school year at the secondary level”* shall mean the product of the class periods per day of class times the number of days per year the class meets divided by the product of the total number of class periods in a school day times the total number of days in a school year. All class periods available in a normal day shall be used in the calculation.

*“ICN”* shall mean the Iowa Communications Network.

*“Political subdivision”* shall mean a political subdivision in the state of Iowa and shall include a city, a township, a county, a public school district, a community college, an area education agency, or an institution governed by the state board of regents (Malcolm Price Laboratory School, Iowa Braille and Sight Saving School, Iowa School for the Deaf, Iowa State University, University of Iowa, and University of Northern Iowa).

*“Regional academy”* shall mean an educational program established by a school district to which multiple school districts send students in grades 9 through 12. The curriculum shall include advanced-level courses and, in addition, may include career-technical courses, Internet-based courses, and coursework delivered via the ICN. Regional academy courses shall not qualify as concurrent enrollment courses and do not generate any postsecondary credit. School districts participating in regional academies are eligible for supplementary weighting as provided in Iowa Code section 257.11, subsection 2.

*“Superintendent”* shall be defined pursuant to Iowa Code section 272.1.

*“Supplant”* shall mean the community college’s replacing the identical course that was offered by the school district in the preceding year or the second preceding year, or the community college’s offering a course that is required by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11.

*“Supplementary weighting plan”* shall mean a plan as defined in this chapter to add a weighting for each resident student eligible who is enrolled in an eligible class taught by a teacher employed by another school district or taught by a teacher employed jointly with another school district or sent to and enrolled in an eligible class in another school district or sent to and enrolled in an eligible community college class. The supplementary weighting for each eligible class shall be calculated by multiplying the fraction of a school year that class represents by the number of eligible resident students enrolled in that class and then multiplying that figure by the weighting factor established in Iowa Code chapter 257.

*“Supplementary weighting plan for at-risk students”* shall mean a plan as defined in this chapter to add a weighting for each resident student enrolled in the district and a weighting for each resident student enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who is eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785, to generate funding to be used to develop or maintain at-risk programs, which may include alternative school programs.

“*Teacher*” shall be defined pursuant to Iowa Code section 272.1.  
 [ARC 8188B, IAB 10/7/09, effective 11/11/09]

**281—97.2(257) Supplementary weighting plan.**

**97.2(1) Eligibility.** Except if listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if one of the following conditions is met pursuant to Iowa Code section 257.11:

- a. Resident student attends class in another school district pursuant to subrule 97.2(2), or
- b. Resident student attends class taught by a teacher employed by another school district pursuant to subrule 97.2(3), or
- c. Resident student attends class taught by a teacher jointly employed by two or more school districts pursuant to subrule 97.2(4), or
- d. Resident student attends class in a community college for college credit pursuant to subrule 97.2(5).

Other than as listed in paragraphs “a” to “d” above and in rules 281—97.3(257), 281—97.4(257), and 281—97.7(257), no other sharing arrangement shall be eligible for supplementary weighting.

**97.2(2) Attend class in another school district.** Students attending class in another school district will be eligible for supplementary weighting under paragraph 97.2(1) “a” only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

**97.2(3) Attend class taught by a teacher employed by another school district.** Students attending class taught by a teacher employed by another school district will be eligible for supplementary weighting under paragraph 97.2(1) “b” only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

**97.2(4) Attend class taught by a teacher jointly employed with another school district.** All of the following conditions must be met for any student attending class taught by a teacher jointly employed to be eligible for supplementary weighting under paragraph 97.2(1) “c.” The school districts jointly employing the teacher must have:

- a. A joint teacher evaluation process and instruments.
- b. A joint teacher professional development plan.
- c. One single salary schedule.

Except for joint employment contracts which meet the requirements of paragraphs “a” to “c” above, no two or more school districts shall list each other for the same classes and grade levels.

**97.2(5) Attend class in a community college.** All of the following conditions must be met for any student attending a community college-offered class to be eligible for supplementary weighting under paragraph 97.2(1) “d.”

- a. The course must supplement, not supplant, high school courses.
  - (1) For purposes of these rules, to comply with the “supplement, not supplant” requirement, the content of a course provided to a high school student for postsecondary credit shall not consist of substantially the same concepts and skills as the content of a course provided by the school district.
  - (2) The course must not be used by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11.
- b. The course must be included in the community college catalog or an amendment or addendum to the catalog.
- c. The course must be open to all registered community college students not just high school students.
- d. The course must be for college credit and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.
- e. The course must be taught by an instructor employed by or under contract with the community college who meets the requirements of Iowa Code section 261E.3.
- f. The course must be taught utilizing the community college course syllabus.

g. The course must be taught in such a manner as to result in student work and student assessment which meet college-level expectations.

h. The course must not have been determined as failing to meet the standards established by the postsecondary course audit committee.

**97.2(6) Ineligibility.** The following students are ineligible for supplementary weighting:

a. Nonresident students attending the school district under any arrangement except open enrolled in students, nonpublic shared-time students, or dual enrolled competent private instruction students in grades 9 through 12.

b. Students eligible for the special education weighting plan provided in Iowa Code section 256B.9 when being served by special education programs or services that carry additional weighting.

c. Students in whole-grade sharing arrangements except under sharing pursuant to subrule 97.2(5) or subrule 97.2(7).

d. Students open enrolled out except under sharing pursuant to subrule 97.2(5) or subrule 97.6(1), paragraph "c."

e. Students open enrolled in, except under sharing pursuant to subrule 97.2(5) or subrule 97.6(1), paragraph "c," when the students are under competent private instruction and are dual enrolled in grades 9 through 12.

f. Students participating in shared services rather than shared classes except under sharing pursuant to rule 281—97.7(257).

g. Students taking postsecondary enrollment options (PSEO) courses.

h. Students enrolled in courses or programs offered by their resident school districts unless those courses meet the conditions for attending classes in a community college under subrule 97.2(5) or if the teacher is employed by another school district pursuant to subrule 97.2(3) or if a teacher is jointly employed with another school district pursuant to subrule 97.2(4) or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

i. Students enrolled in courses or programs taught by teachers employed by their resident school districts unless the employment meets the criteria of joint employment with another school district under subrule 97.2(4) or if the criteria in subrule 97.2(5) are met for students attending class in a community college or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

j. Students enrolled in an at-risk program or alternative school program when being served by such program.

k. Students enrolled in summer school courses.

**97.2(7) Whole-grade sharing.** If all or a substantial portion of the students in any grade are shared with another one or more school districts for all or a substantial portion of a school day, then no students in that grade level are eligible for supplementary weighting except as authorized by rule 281—97.5(257). No students in the grade levels who meet the criterion in this subrule are eligible for supplementary weighting even in the absence of an agreement executed pursuant to Iowa Code sections 282.10 through 282.12. A district that discontinues grades pursuant to Iowa Code section 282.7 is deemed to be whole-grade sharing the resident students in those discontinued grades for purposes of these rules.

a. In a one-way whole-grade sharing arrangement, the receiving district may count its resident students in the grade levels that are whole-grade shared if the resident students are shared pursuant to subrule 97.2(2), 97.2(3), or 97.2(5).

b. In a one-way whole-grade sharing arrangement, the receiving district may not count its resident students in the grade levels that are whole-grade shared pursuant to subrule 97.2(3) if the teacher is employed by the same district that is sending students under the whole-grade sharing arrangement.

**97.2(8) *Due date.*** Supplementary weighting shall be included with the certified enrollment which is due October 15 following the October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, on which the enrollment was taken.

[ARC 8188B, IAB 10/7/09, effective 11/11/09; ARC 9266B, IAB 12/15/10, effective 1/19/11]

**281—97.3(257) Supplementary weighting plan for at-risk students.**

**97.3(1) *Uses of funds.*** Funding generated by the supplementary weighting plan for at-risk students shall be used to develop or maintain at-risk programs, which may include alternative school programs.

**97.3(2) *Calculation of funding.*** Funding for the supplementary weighting plan for at-risk students is calculated as follows:

*a.* Adding a weighting for each resident student of one hundred fifty-six one-hundred-thousandths, and

*b.* Adding a weighting of forty-eight ten-thousandths for each resident student enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who is eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785.

**97.3(3) *Guarantee.*** Rescinded IAB 8/21/02, effective 9/25/02.

**97.3(4) *Recalculation of funding.*** Rescinded IAB 8/21/02, effective 9/25/02.

**97.3(5) *School-based youth services.*** Rescinded IAB 8/21/02, effective 9/25/02.

**281—97.4(257) Supplementary weighting plan for a regional academy.**

**97.4(1) *Eligibility.*** Except if listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if all of the following criteria are met:

*a.* Two or more Iowa school districts, other than a whole-grade sharing partner district, send students to advanced-level courses that are included in the curriculum of the regional academy, and these students are eligible for supplementary weighting under subrule 97.2(1), paragraph “a” or “c.” In addition, for the host district to qualify for the minimum weighting pursuant to subrule 97.4(4), one or more Iowa school districts, other than a whole-grade sharing partner district, must send students to career-technical classes that are included in the curriculum of the regional academy.

*b.* The regional academy is located in the district.

*c.* The grade levels include one or more grades nine through twelve.

*d.* The curriculum is an organized course of study, adopted by the board, that includes a minimum of two advanced-level courses that are not part of a career-technical program. An advanced-level course is a course that is above the level of the course units required as minimum curriculum in 281—Chapter 12 in the host district.

*e.* The resident students are not eligible for supplementary weighting under another supplementary weighting plan.

*f.* No resident or nonresident students are attending the regional academy under a whole-grade sharing arrangement as defined in subrule 97.2(7).

*g.* Two or more sending districts that are whole-grade sharing partner districts shall be treated as one sending district for purposes of subrule 97.4(1), paragraph “a.”

**97.4(2) *Weighting.*** Resident students eligible for supplementary weighting pursuant to subrule 97.4(1) shall be eligible for a weighting of one-tenth of the fraction of a school year during which the pupil attends courses at the regional academy in which nonresident students are enrolled pursuant to subrule 97.4(1), paragraph “a.”

**97.4(3) *Maximum weighting.*** The maximum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to 30 full-time-equivalent pupils.

**97.4(4) *Minimum weighting.*** The minimum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to 15

full-time-equivalent pupils if the academy provides both advanced-level courses and career-technical courses.

**97.4(5) *Additional programs.*** If all of the criteria in subrule 97.4(1) are met, the regional academy may also include in its curriculum career-technical courses, Internet-based courses and ICN courses.

**97.4(6) *Career academy.*** A career academy is not a regional academy for purposes of these rules. [ARC 8188B, IAB 10/7/09, effective 11/11/09]

**281—97.5(257) Supplementary weighting plan for whole-grade sharing.**

**97.5(1) *Whole-grade sharing.*** A school district which participates in a whole-grade sharing arrangement executed pursuant to Iowa Code sections 282.10 to 282.12 and which has adopted a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization to take effect on or before July 1, 2014, is eligible to assign a weighting of one-tenth of the fraction of the school year during which resident pupils attend classes pursuant to subrule 97.2(1), paragraph “a,” “b,” or “c.” A school district participating in a whole-grade sharing arrangement shall be eligible for supplementary weighting under this subrule for a maximum of three years. Receipt of supplementary weighting for the second year and for the third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress or continued progress toward the objective of dissolution or reorganization on or before July 1, 2014.

**97.5(2) *Contiguous districts.*** School districts that adopt a board resolution jointly with all other affected boards to study reorganization must be contiguous school districts. If two or more of the affected districts are not contiguous to each other, all districts separating those districts must be a party to the whole-grade sharing arrangement and the board resolution adopted jointly to study reorganization.

**97.5(3) *Consecutive years.*** A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.5(1) is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, 2013.

**97.5(4) *Change in sharing districts.*** A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.5(1) may enter into a whole-grade sharing arrangement with one or more different districts for its second or third year of eligible weighting by adopting and filing a new joint board resolution pursuant to this subrule. Establishing a new whole-grade sharing arrangement does not extend the maximum number of years for which a school district is eligible.

**97.5(5) *Filing board resolutions.*** Each school district that adopts a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization shall file a copy of the board resolution with the department of education not later than October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

**97.5(6) *Filing progress reports.*** Each school district that assigned a supplementary weighting to resident students attending class in a whole-grade sharing arrangement and that intends to assign a supplementary weighting to resident students attending class in a whole-grade sharing arrangement in the following year shall file a report of progress toward reorganization with the school budget review committee, on forms developed by the department of education, no later than August 1 preceding October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

*a.* The progress report shall include, but not be limited to, the following information:

- (1) Names of districts with which the district is studying reorganization.
- (2) Descriptive information on the whole-grade sharing arrangement.
- (3) If the district is studying dissolution, information on whether public hearings have been held, a proposal has been adopted, and an election date has been set.
- (4) If the district is studying reorganization, information on whether public hearings have been held, a plan has been approved by the AEA, and an election date has been set.
- (5) Description of joint activities of the boards such as planning retreats and community meetings.

(6) Information showing an increase in sharing activities with the whole-grade sharing partners such as curriculum offerings, program administration, personnel, and facilities.

*b.* The report must indicate progress toward a reorganization or dissolution to occur on or before July 1, 2014. Indicators of progress may include, but are not limited to:

(1) Establishing substantially similar salary schedules or a plan by which the sharing districts will be able to develop a single salary schedule upon reorganization.

(2) Establishing a joint teacher evaluation process and instruments.

(3) Developing a substantially similar continuous school improvement plan (CSIP) with aligned goals including a district professional development plan.

(4) Increasing the number of grades involved in the whole-grade sharing arrangement.

(5) Increasing the number of shared teaching or educator positions.

(6) Increasing the number or extent of operational sharing arrangements.

(7) Increasing the number of shared programs such as career, at risk, gifted and talented, curricular, or cocurricular.

(8) Increasing the number of joint board meetings or planning retreats.

(9) Holding regular or frequent public meetings to inform the public of progress toward reorganization and to receive comments from the public regarding the proposed reorganization.

(10) Adopting a reorganization or dissolution proposal.

(11) Setting proposed boundaries.

(12) Setting a date for an election on the reorganization or dissolution proposal.

*c.* The school budget review committee shall consider each progress report at its first regular meeting of the fiscal year and shall accept the progress report or shall reject the progress report with comments. The reports will be evaluated on demonstrated progress within the past year toward reorganization or dissolution.

*d.* A school district whose progress report is not accepted shall be allowed to submit a revised progress report at the second regular meeting of the school budget review committee. The committee shall accept or reject the revised progress report.

*e.* If the school budget review committee rejects the progress report and the district does not submit a revised progress report or if the school budget review committee rejects the revised progress report, the school district shall not be eligible for supplementary weighting for whole-grade sharing.

[ARC 8188B, IAB 10/7/09, effective 11/11/09]

### **281—97.6(257) Supplementary weighting plan for ICN video services.**

**97.6(1) Eligibility.** Except for students listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment, is not eligible for supplementary weighting for the same course under another supplementary weighting plan, and meets any of the criteria in “*a*,” “*b*,” or “*c*” below. For purposes of this subrule, the portion of a course offered via ICN video services shall be considered separately from the portion of the course not offered via ICN video services. Eligible students include:

*a.* Resident students who receive a virtual class provided by another school district via ICN video services.

*b.* Resident students who attend a virtual class that the resident district is providing to students in one or more other school districts via ICN video services.

*c.* Resident students who receive a virtual community college class via ICN video services. The community college class must be a course eligible for supplementary weighting under the criteria listed in subrule 97.2(5).

**97.6(2) Weighting.** Resident students eligible for supplementary weighting pursuant to subrule 97.6(1) shall be eligible for a weighting of one-twentieth of the fraction of the school year during which the pupil attends the virtual class.

**97.6(3) Payment to teachers.** A school district that includes students in a virtual class for supplementary weighting shall reserve 50 percent of the supplementary weighting funding the district

will receive as a result of including the resident students in the virtual class for supplementary weighting as additional pay for the virtual class teacher.

- a. The employer of the virtual class teacher will make the payment.
- b. The additional pay includes salary and the employer's share of FICA and IPERS.
- c. The employer shall pay the virtual class teacher during the same school year in which the virtual class is provided.
- d. The employer may pay the virtual class teacher at the conclusion of the virtual class or may pay the teacher periodic payments that represent the portion of the virtual class that has been provided. The employer may not pay the teacher prior to services being rendered.
- e. The additional pay shall be calculated as 0.5 multiplied by the supplementary weighting for the virtual class multiplied by the district cost per pupil in the subsequent budget year.
- f. If the teacher's contract includes additional pay for teaching the virtual class, the teacher shall receive the higher amount of the additional pay in the contract or the amount of the additional pay calculated pursuant to paragraphs "b" and "e" above. For purposes of this comparison, the employer shall compare the salary portions only.
- g. The contract between the agencies shall provide for the additional pay for the teacher of the virtual class. That 50 percent of the supplementary weighting funding would be paid in addition to the tuition sent to the providing district or community college to be paid as additional pay to its teacher employee.

**281—97.7(257) Supplementary weighting plan for operational services.**

**97.7(1) Eligibility.** Except for students listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if all of the following criteria are met:

- a. The district shares a discrete operational function with one or more other political subdivisions pursuant to a written contract.
- b. The district shares the operational function for at least 20 percent of the contract time period during the fiscal year that is customary for a full-time employee in the operational function being shared, and at least one of the sharing partners also shares the operational function for at least 20 percent of the contract time period during the fiscal year. The 20 percent is measured each fiscal year and for each discrete operational function.
- c. Personnel shared as part of the operational function are employees of one of the sharing partners but are not employees of more than one of the sharing partners.
- d. If the district shares an operational function with more than one political subdivision, the sharing arrangement is listed only once for purposes of supplementary weighting.
- e. If the district shares more than one individual in the same operational function, that operational function shall be listed only once for the purposes of supplementary weighting.
- f. No individual personnel shall be included for operational function sharing more than once for supplementary weighting in the same fiscal year.
- g. If more than one sharing arrangement is implemented in any one operational function area and the services shared are substantially similar as determined by the department of education, only the sharing arrangement implemented first will be eligible for supplementary weighting.
- h. The operational function areas shared include one or more of the areas listed in subrule 97.7(2).

**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, or facility operation or maintenance management. "Operational function sharing" does not mean sharing of clerical personnel, librarians, counselors, nurses, and curriculum directors. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

- a. *Superintendent management.*

(1) Shared personnel must perform the services of a superintendent, in the case of a school district, or chief administrator, in the case of an area education agency, or executive administrator, in the case of other political subdivisions, for each of the sharing partners. An individual performing the function of a superintendent or chief administrator must be properly licensed for that position.

(2) If the services of a superintendent are shared in any of the five eligible years, the district may not also share an assistant superintendent in any year for purposes of supplementary weighting.

(3) Clerical or other support services personnel in the superintendent function area or executive administrator function area shall not be considered shared superintendent management under this subrule.

(4) Shared superintendent services or executive administrator 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.

*b. Business management.*

(1) Shared personnel must perform the services of managing the business operations for each of the sharing partners. Managing business operations would include personnel performing the duties of a business manager or personnel performing the duties listed in the Iowa Code for a board secretary including, but not limited to, board secretary duties listed in Iowa Code chapter 291, or personnel performing the duties listed in the Iowa Code for a board treasurer including, but not limited to, board treasurer duties listed in Iowa Code chapter 291, in each of the sharing partners.

(2) Services of clerical personnel, superintendents, principals, teachers, board officers except those listed in subparagraph (1), or any other nonbusiness administration personnel shall not be considered shared business management under this subrule.

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

*c. Human resources management.*

(1) Shared personnel must perform the services of managing human resources for each of the sharing partners.

(2) Services of clerical personnel, superintendents, principals, curriculum directors, teachers, or board officers shall not be considered shared human resources management under this subrule.

(3) Shared human resources management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

*d. Student transportation management.*

(1) Shared personnel shall include transportation directors or supervisors. Shared personnel must perform services related to transportation for each of the sharing partners, but may perform different transportation services for each of the sharing partners.

(2) Services of clerical or paraprofessional personnel, school bus mechanics, and school bus drivers shall not be considered shared student transportation management under this subrule.

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

*e. Facility operations and maintenance.*

(1) Shared personnel shall include facility managers and supervisors of buildings or grounds. Shared personnel must perform services related to facility operations and maintenance for each of the sharing partners, but may perform different facility operations and maintenance services for each of the sharing partners.

(2) Services of clerical personnel or custodians shall not be considered shared facility operations and maintenance management for supplementary weighting under this subrule.

(3) Shared facility operations and maintenance shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

**97.7(3) Years of eligibility.** A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included

for supplementary weighting. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, 2007.

*a.* Receipt of supplementary weighting after the first year shall be conditioned upon the submission of cost information provided in the format prescribed by the department of education as part of the certified annual report documenting cost savings directly attributable to the shared operational functions.

*b.* The documentation shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting.

**97.7(4) *Contiguous districts.*** School districts that share operational functions with other school districts must be contiguous school districts. If two or more sharing partner districts are not contiguous to each other, all districts separating those districts must be a party to the operational function sharing arrangement.

**97.7(5) *Consecutive years.*** A school district that is eligible to add a supplementary weighting for resident students for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, 2012, and the total of all years in which a supplementary weighting may be added on October 1 for this purpose shall not exceed five years.

**97.7(6) *Change in sharing partners.*** A school district that is eligible to add a supplementary weighting for resident students for a shared operational function may enter into an operational function sharing arrangement with one or more different sharing partners for its second, third, fourth or fifth year of eligible weighting. Establishing a new operational function sharing arrangement in a substantially similar function does not extend the maximum number of years for which a school district is eligible.

**97.7(7) *Change in shared personnel.*** A school district that is eligible to add a supplementary weighting for resident students for a shared operational function may enter into an operational function arrangement for a different individual in a substantially similar position. Implementing a change of the individual or individuals shared does not extend the maximum number of years for which a school district is eligible.

**97.7(8) *Multiple shared operational functions.*** A school district that implements more than one sharing arrangement within any discrete operational function area shall be eligible for supplementary weighting for only one sharing arrangement in that discrete operational function.

**97.7(9) *Weighting.*** Resident students eligible for supplementary weighting pursuant to rule 281—97.7(257) shall be eligible for a weighting of two-hundredths per pupil included in the actual enrollment in the district. The supplementary weighting shall be assigned to each discrete operational function shared. The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years.

*a.* The supplementary weighting for operational functions shared is decreased each year based on the following schedule:

(1) The total supplementary weighting calculated for all operational function sharing in the second year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

(2) The total supplementary weighting calculated for all operational function sharing in the third year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

(3) The total supplementary weighting calculated for all operational function sharing in the fourth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

(4) The total supplementary weighting calculated for all operational function sharing in the fifth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

*b.* The decrease in the total supplementary weighting as described in paragraph “a” of this subrule shall be applied after any adjustment for minimum or maximum weighting has been applied.

*c.* The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement, new arrangement, or continuing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

**97.7(10) *Maximum weighting.*** The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to 40 full-time equivalent pupils prior to any reduction pursuant to subrule 97.7(9). The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function.

**97.7(11) *Minimum weighting.*** The minimum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to ten additional pupils prior to any reduction pursuant to subrule 97.7(9). The minimum additional weighting applies to the total of all operational function sharing rather than each discrete operational function.

**97.7(12) *Filing cost-savings documentation.*** Each school district that receives supplementary weighting for sharing one or more operational functions shall file with the department of education documentation of cost savings directly attributable to the shared operational functions. This documentation shall be submitted in the format prescribed by the department of education as part of the certified annual report. The documentation shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting.

**97.7(13) *Determining cost savings.*** The criteria considered by the department of education in determining shared operational function cost savings and increased student opportunities shall include, but not be limited to, the following:

*a.* The percent of costs calculated as the total of general fund expenditures for all operational functions that could be shared divided by the total of all general fund expenditures, multiplied by 100, in the current year compared to the previous year. The current year is the fiscal year ending on June 30 that includes the October 1 on which the district included any operational function shared for supplementary weighting. The decrease in percent shall be a measurable decrease of at least one-tenth of one percent in the first fiscal year for which cost savings are determined. In a year after the first fiscal year for which cost savings are determined, the percent of costs shall not be greater than the percent in the previous fiscal year.

*b.* The percent of costs calculated as the total of general fund expenditures for all instruction, student support, and instructional staff support functions divided by the total of all general fund expenditures, multiplied by 100, in the current year compared to the previous year. The current year is the fiscal year ending on June 30 that includes the October 1 on which the district included any operational function shared for supplementary weighting. The increase in percent must be a measurable increase of at least one-tenth of 1 percent in the first fiscal year for which increased student opportunities are determined. In a year after the first fiscal year for which increased student opportunities are determined, the percent of costs shall not be less than the percent in the previous fiscal year.

*c.* The department of education will adjust the total expenditures to exclude distorting financial transactions or interagency financial transactions. Distorting financial transactions shall be determined by the department of education.

*d.* If the district cannot demonstrate cost savings directly attributable to the shared operational function or increased student opportunities, the district will not be eligible for supplementary weighting for operational function sharing for that fiscal year.

**97.7(14) Area education agency maximum funding.** The provisions of rule 281—97.7(257) also apply to an area education agency except for per-pupil weightings, minimum weightings, and maximum weightings.

*a.* In lieu of minimum weightings, an area education agency shall be eligible for a minimum amount of additional funding of \$50,000 for the total of all operational function sharing arrangements. The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.

*b.* In lieu of maximum weightings, an area education agency shall be eligible for a maximum amount of additional funding of \$200,000 for the total of all operational function sharing arrangements. The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.

*c.* In lieu of supplementary weighting of students, the department of management shall annually set a weighting for each area education agency to generate the approved operational function sharing dollars using each area education agency's special education cost-per-pupil amount and foundation level. [ARC 8188B, IAB 10/7/09, effective 11/11/09]

These rules are intended to implement Iowa Code sections 257.6, 257.11, and 257.12, Iowa Code chapter 261E, and 2007 Iowa Acts, Senate File 588, section 6.

[Filed emergency 8/13/99—published 9/8/99, effective 8/13/99]

[Filed 10/21/99, Notice 9/8/99—published 11/17/99, effective 12/22/99]

[Filed 10/20/00, Notice 8/23/00—published 11/15/00, effective 12/20/00]

[Filed 8/2/02, Notice 5/29/02—published 8/21/02, effective 9/25/02]

[Filed 11/19/03, Notice 10/1/03—published 12/10/03, effective 1/14/04]

[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]

[Filed ARC 8188B (Notice ARC 7611B, IAB 3/11/09), IAB 10/7/09, effective 11/11/09]

[Filed ARC 9266B (Notice ARC 9016B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]



CHAPTER 98  
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I  
GENERAL PROVISIONS

**281—98.1(256,257) Definitions.** For the purposes of this chapter, the following definitions apply:

*“Budgetary allocation”* means the portion of the funding that is specifically earmarked for a particular purpose or designated program and which, in the case of the general fund, has been rolled into, or added to, the school district cost per pupil or school district regular program cost. Budgetary allocations may include both state aid and property tax. Budgetary allocations increase budget authority on the first day of the fiscal year for which the allocation has been certified or on the date that the school budget review committee approves modified allowable growth for a specific purpose or program; the budget authority remains even if the full amount of revenue is not received or if the local board does not levy a cash reserve. There is no assumption that a school district or area education agency will receive the same amount of revenue as it has received in budget authority due to delinquent property taxes, cuts in state aid, or legislative decisions to fund other instructional programs off the top of state aid. The school district or area education agency must expend the full amount of budget authority for the specific purposes for which it was earmarked. When the school district or state cost per pupil is transferred from one school district to another school district in the form of tuition as required by the Iowa Code, any budgetary allocation that is included in the school district or state cost per pupil shall be considered transferred to the receiving school district and shall be expended for the specific purpose for which it was earmarked.

*“Categorical funding”* means financial support from state and federal governments that is targeted for particular categories of students, special programs, or special purposes. This support is in addition to school district or area education agency general purpose revenue, is beyond the basic educational program, and most often has restrictions on its use. Where categorical funding requires a local match, that local match also is considered to be categorical funding. Categorical funding includes both grants in aid and budgetary allocations. Although grants in aid and budgetary allocations are both categorical funding, they are defined separately to distinguish unique characteristics of each type of categorical funding.

*“Community education”* means a life-long education process concerning itself with every facet that affects the well-being of all citizens within a given community. It extends the role of the school from one of teaching children through an elementary and secondary program to one of providing for citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.

Community education energizes people to strive for the achievement of determined goals and stimulates capable persons to assume leadership responsibilities. It welcomes and works with all groups, it draws no lines. It is the one institution in the entire community that has the opportunity to reach all people and groups and to gain their cooperation.

*“Grants in aid”* means financial support, usually from state or federal appropriations, that is either allocated to the school district or area education agency or for which a school district or area education agency applies. This support is paid separately from state foundation aid. In the general fund, grants in aid become miscellaneous income and increase budget authority when the support is received as revenue.

*“Supplement, not supplant”* means that the categorical funding shall be in addition to general purpose revenues; that categorical funding shall not be used to provide services required by federal or state law, administrative rule, or local policy; and that general purpose revenues shall not be diverted for other purposes because of the availability of categorical funding. Supplanting is presumed to have occurred if the school district or area education agency uses categorical funding to provide services that it was required to make available under other categorical funding or law, or uses categorical funding to provide

services that it provided in prior years from general purpose revenues, or uses categorical funding to provide services to a particular group of children or programs for which it uses general purpose revenues to provide the same or similar services to other groups of children or programs. These presumptions are rebuttable if the school district or area education agency can demonstrate that it would not have provided the services in question with general purpose revenues if the categorical funding had not been available. [ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.2(256,257) General finance.** The categorical funding provided for various purposes to school districts and area education agencies includes general financial characteristics that are detailed in the following subrules.

**98.2(1) Indirect cost recovery.** Categorical funding provided by the state to school districts or area education agencies is not eligible for indirect cost recovery unless the Iowa Code section authorizing the funding or allocation expressly states that indirect cost recovery is permitted from that source. If the Iowa Code permits indirect cost recovery, the school district or area education agency shall utilize its restricted indirect cost rate developed by the department for federal programs from data submitted by the school district or area education agency on its certified annual report.

**98.2(2) Restriction on supplanting.** Categorical funding shall supplement, but shall not supplant, expenditures in the appropriate fund into which the categorical funding is deposited and accounted for, unless the Iowa Code section authorizing the funding or allocation expressly states that supplanting is permitted from that source.

**98.2(3) Mandatory carryforward.** Any portion of categorical funding provided by the state that is not expended by the end of the fiscal year in which it was received by or for which it was allocated to the school district or area education agency shall be carried forward as a reserved fund balance and added to the subsequent year's budget for that purpose. The funding can only be expended for the purposes permitted for that categorical funding. Where a local match is required for categorical funding, the amount unexpended at the end of the fiscal year that is carried forward shall not be used as part of the required local match.

**98.2(4) Discontinued funding.** In the event that a categorical funding source is discontinued and an unexpended balance remains, the school district or area education agency shall carry forward the unexpended balance and expend the remaining balance within the subsequent 24 months for the purposes which were allowed in the final year that the funding was allocated or granted prior to discontinuation unless a rule in this chapter provides for a longer period. This subrule does not apply to market factor incentive pay funding, which may be carried forward until expended, but any expenditures from the market factor incentive pay funding must be appropriate under Iowa Code section 284.11 (2007 and 2007 Supplement).

**98.2(5) Expenditures.** Expenditures from categorical funding shall be limited to direct costs of providing the program or service for which the funding was intended. Expenditures shall not include costs that are allocated costs or that are considered indirect costs or overhead. Expenditures for the functions of administration, business and central services, operation and maintenance of plant, transportation, enterprise and community service operations, facility acquisition and construction, or debt service generally are not allowed from categorical funding unless expressly allowed by the Iowa Code or if the expenditure represents a direct, allowable cost. In order for costs of administration, business and central services, operation and maintenance of plant, transportation, or enterprise and community service operations to be considered direct costs, the costs must be necessary because of something that is unique to the program that is causing the need for the service, not otherwise needed or not otherwise provided to similar programs; the costs must be in addition to those which are normally incurred; and the costs must be measurable directly without allocating. Where a local match is required for categorical funding, that local match requirement shall not be met by the use of other categorical funding except where expressly allowed by the Iowa Code. Expenditures shall not include reimbursing the school district or area education agency for expenditures it paid in a previous year in excess of the funding available for that year.

**98.2(6) *Restriction on duplication.*** The school district or area education agency shall not charge the same cost to more than one funding source.

**98.2(7) *Excess expenditures.*** The school district or area education agency shall not charge to categorical funding more expenditures than the total of the current year's funding or allocation plus any carryforward balance from the previous year.

**98.2(8) *Commingling prohibited.*** Categorical funding shall not be commingled with other funding. All categorical funding shall be accounted for separately from other funding. School districts and area education agencies shall use a project code and program code as defined by Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as appropriate or required.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.3 to 98.10** Reserved.

DIVISION II  
APPROPRIATE USE OF BUDGETARY ALLOCATIONS

**281—98.11(257) Categorical and noncategorical student counts.** The certified enrollment data collection includes both student counts related to budgetary allocations for the subsequent budget year that are provided for the purpose of offering a program that is in addition to the basic educational program for a specific category of students and student counts that are general in nature and can be used for any legal general fund purpose. Student counts that are general in nature are used to generate funding through the school aid foundation formula and are not intended to fund a specific program or a specific category of students. General student counts include the basic enrollment of full-time resident students.

Counts for part-time nonpublic students participating in public school classes pursuant to Iowa Code section 257.6(3) and counts for part-time dual enrolled competent private instruction students in grades 9 through 12 are the full-time equivalent enrollment of a regularly enrolled student. Counts for dual enrolled competent private instruction students in grades lower than grade 9 are the legislatively set equivalent of a regularly enrolled full-time student. Counts for part-time nonpublic students and for part-time dual enrolled competent private instruction students in grades 9 through 12 who participate in the postsecondary enrollment option Act classes are the full-time equivalent of a regularly enrolled student based on cost. Because these counts are the full-time equivalent of a regularly enrolled student, and are not in addition to the full-time equivalent, the funding generated within the school aid foundation formula based on these counts is considered general in nature.

Student counts related to categorical budgetary allocations are those that generate funding intended to be used for only that specific category of students being counted or for the specific program for which the additional counts are authorized in the Iowa Code.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.12(257,299A) Home school assistance program.** The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district.

**98.12(1) *Appropriate uses of categorical funding.*** Appropriate uses of the home school assistance program funding include, but are not limited to, the following:

- a. Assisting parents with instruction.
- b. Services to support students enrolled in a home school assistance program, to support the parents of the students, and to support home school assistance program staff.
- c. Salary and benefits for the supervising teacher of the home school assistance program. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, then the portion of time that is related to providing the home school assistance program can be charged to the program, but the regular classroom portion cannot.
- d. Salary and benefits for clerical and office staff of the home school assistance program. If the staff member's employment supports other programs of the school district, only that portion of the staff

member's salary and benefits that is related to providing the home school assistance program can be charged to the program.

- e. Staff development for the home school assistance program teacher.
- f. Travel for the home school assistance program teacher.
- g. Resources, materials, computer software, supplies, and purchased services (1) that are necessary to provide the services of home school assistance and (2) that will remain with the school district for its home school assistance program.
- h. A copier and computer hardware that support the home school assistance program.

**98.12(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of the home school assistance program funding include, but are not limited to, indirect costs or use charges; operational or maintenance costs in addition to the cost of maintaining school district facilities; capital expenditures; student transportation except in cases of home school assistance program-approved field trips or other educational activities; administrative costs; concurrent enrollment program costs, including postsecondary enrollment options program costs; or any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys to parents or students utilizing the program.

[ARC 8054B, IAB 8/26/09, effective 9/30/09 (See Delay note at end of chapter); ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.13(256C,257) Statewide voluntary four-year-old preschool program.** The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

**98.13(1) *Appropriate uses of categorical funding.*** Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services, but include expenditures required in 281—Chapter 16.

**98.13(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of the statewide voluntary four-year-old preschool program funding include, but are not limited to, indirect costs or use charges, capital expenditures other than equipment, facility acquisition, debt service, operational or maintenance costs or administrative costs that supplant, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.14(257) Supplementary weighting.** Supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of students and staff between school districts and providing postsecondary opportunities for qualified students. It is assumed that supplementary weighting covers only a portion of the costs of sharing or providing postsecondary opportunities and shall be fully expended within the fiscal year. Therefore, school districts are not required to account for the supplementary weighting funding separate from the general purpose revenues.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.15(257) Operational function sharing supplementary weighting.** Operational function sharing supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of management-level staff. It is assumed that operational function sharing supplementary weighting covers only a portion of the costs of sharing management-level staff and shall be fully expended within the five-year period of sharing. Therefore, school districts are not required to account for the operational function sharing supplementary weighting funding separate from the general purpose revenues.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.16(257,280) Limited English proficiency (LEP) weighting.** Limited English proficiency weighting provides funding in addition to the student count that generates general purpose revenues and

is for the purpose of providing funding for the excess costs of instruction of limited English proficiency students above the costs of instruction of pupils in a regular curriculum. In addition, the school budget review committee may grant modified allowable growth to continue funding of the excess costs beyond the four years of weighting. Funding for the limited English proficiency weighting and the modified allowable growth for limited English proficiency programs are both categorical funding and may have different restrictions than the federal limited English proficiency funding.

**98.16(1) *Appropriate uses of categorical funding.*** Appropriate uses of funding for the limited English proficiency program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures include, but are not limited to, salaries and benefits of teachers and paraeducators; instructional supplies, textbooks, and technology; classroom interpreters; support services to students served in limited English proficiency programs above the services provided to pupils in regular programs; support services to instructional staff such as targeted professional development, curriculum development or academic student assessment; and support services provided to parents of limited English proficiency students and community services specific to limited English proficiency.

**98.16(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of funding for the limited English proficiency program include, but are not limited to, indirect costs, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the limited English proficiency program beyond the scope of the regular classroom.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.17(256B,257) Special education weighting.** Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students. Further information on the special education program is provided in 281—Chapter 41.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.18(257) At-risk formula supplementary weighting.** At-risk formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of at-risk and alternative school secondary students pursuant to Iowa Code section 257.11(4) “a.”

**98.18(1) *Appropriate uses of categorical funding.*** Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain at-risk pupils' programs, which may include alternative school programs, and include, but are not limited to:

*a.* Salary and benefits for the teacher(s) and guidance counselor(s) of students participating in the at-risk or alternative school programs when the teacher (or counselor) is dedicated to working directly and exclusively with identified students beyond the services provided by the school district to students who are not identified as at risk. If the teacher (or counselor) is part-time at-risk and part-time regular classroom teacher (counselor), then the portion of time that is related to the at-risk program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

*b.* Professional development for all teachers and staff working with at-risk students and programs involving intervention strategies.

*c.* Research-based resources, materials, software, supplies, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students at risk,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's at-risk program plan, and
- (4) Will remain with the K through 12 at-risk program.

**98.18(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of the at-risk formula supplementary weighting funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs other than those related to a separate school located off site and where the

administrator is assigned exclusively to this program, or any other expenditures not directly related to providing the at-risk or alternative school program beyond the scope of the regular classroom program. [ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.19(257) Reorganization incentive weighting.** Reorganization incentive weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting reorganization of school districts to increase student learning opportunities. It is assumed that reorganization incentive weighting covers only a portion of the costs of reorganizing and shall be fully expended within the fiscal year. Therefore, school districts are not required to account for the reorganization incentive weighting funding separate from the general purpose revenues. [ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.20(257) Gifted and talented program.** Gifted and talented program funding is included in the school district cost per pupil calculated for each school district under the school foundation formula. The per-pupil amount increases each year by the allowable growth percentage. This amount must account for not more than 75 percent of the school district's total gifted and talented program budget. The school district must also provide a local match from the school district's regular program district cost and the local match portion must be a minimum of 25 percent of the total gifted and talented program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the gifted and talented program. The 75 percent portion, the local match, and all donations and grants shall be accounted for as categorical funding.

The purpose of the gifted and talented funding described in Iowa Code section 257.46 is to provide for identified gifted students' needs beyond those provided by the regular school program pursuant to each gifted student's individualized plan. The funding shall be used only for expenditures that are directly related to providing the gifted and talented program.

**98.20(1) Appropriate uses of categorical funding.** Appropriate uses of the gifted and talented program funding include, but are not limited to:

*a.* Salary and benefits for the teacher of gifted and talented students. If the teacher is a part-time gifted and talented and a part-time regular classroom teacher, then the portion of time that is related to the gifted and talented program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

*b.* Staff development for the gifted and talented teacher.

*c.* Resources, materials, software, supplies, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed on the gifted students' individualized plans, and
- (4) Will remain with the K through 12 gifted and talented program.

**98.20(2) Inappropriate uses of categorical funding.** Inappropriate uses of the gifted and talented program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the gifted and talented program beyond the scope of the regular classroom.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.21(257) Returning dropout and dropout prevention program.** Returning dropout and dropout prevention programs are funded through a school district-initiated request to the school budget review committee for modified allowable growth pursuant to Iowa Code sections 257.38 to 257.41. This amount must account for not more than 75 percent of the school district's total dropout prevention budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total dropout prevention budget. In addition, school districts may receive donations and grants, and the school district

may contribute more local school district resources toward the program. The 75 percent portion, the local match, and all donations and grants shall be accounted for as categorical funding.

**98.21(1) Purpose of categorical funding.** The purpose of the dropout prevention funding is to provide funding to meet the needs of identified students at risk of dropping out of school beyond the instructional program and services provided by the regular school program. The funding shall be used only for expenditures that are directly related to the returning dropout and dropout prevention program.

*a.* Returning dropouts are resident pupils who have been enrolled in a public or nonpublic school in any of grades 7 through 12 who withdrew from school for a reason other than transfer to another school or school district and who subsequently reenrolled in a public school in the school district.

*b.* Potential dropouts are resident pupils who are enrolled in a public or nonpublic school who demonstrate poor school adjustment as indicated by two or more of the following:

- (1) High rate of absenteeism, truancy, or frequent tardiness.
- (2) Limited or no extracurricular participation or lack of identification with school, including but not limited to expressed feelings of not belonging.
- (3) Poor grades, including but not limited to failing in one or more school subjects or grade levels.
- (4) Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.

(5) Children in grades kindergarten through 3 who meet the definition of at-risk children adopted by the department of education.

**98.21(2) Appropriate uses of categorical funding.** Appropriate uses of the returning dropout and dropout prevention program funding include, but are not limited to:

*a.* Salary and benefits for the teacher(s) and guidance counselor(s) of students participating in the dropout prevention programs, alternative programs, and alternative schools when the teacher (or counselor) is dedicated to working directly and exclusively with identified students to provide services beyond those provided by the school district to students who are not identified as at risk of becoming dropouts. If the teacher (or counselor) is a part-time dropout prevention and part-time regular classroom teacher (counselor), then the portion of time that is related to the dropout prevention program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

*b.* Professional development for all teachers and staff working with at-risk students and programs involving dropout prevention strategies.

*c.* Research-based resources, materials, software, supplies, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students at risk of dropping out or returning dropouts,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's dropout prevention plan, and
- (4) Will remain with the K through 12 returning dropout and dropout prevention program.

**98.21(3) Inappropriate uses of categorical funding.** Inappropriate uses of the returning dropout and dropout prevention program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs other than those related to a separate school located off site and where the administrator is assigned exclusively to this program, or any other expenditures not directly related to providing the returning dropout and dropout prevention program beyond the scope of the regular classroom.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.22(257) Use of the unexpended general fund balance.** The unexpended general fund balance is commonly called the secretary's balance and refers to the fund balance remaining in the general fund at the end of the fiscal year.

**98.22(1) Authorization required.** The school budget review committee may authorize a school district to spend a reasonable and specified amount from its unexpended general fund balance for either of the following purposes:

a. Furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the school district have approved a bond issue as provided by law or the tax levy provided in Iowa Code section 298.2.

b. The costs associated with the demolition of an unused school building, or the conversion of an unused school building for community use, in a school district involved in a dissolution or reorganization under Iowa Code chapter 275, if the costs are incurred within three years of the dissolution or reorganization.

**98.22(2) *Appropriate uses of categorical funding.*** Appropriate uses of the unexpended general fund balance include a transfer from the general fund to the capital projects fund in the amount approved by the school budget review committee. The moneys in the capital projects fund shall be used exclusively for furnishing, equipping or constructing a new building or for demolishing an unused building.

**98.22(3) *Inappropriate uses of categorical funding.*** Inappropriate uses of the unexpended general fund balance include, but are not limited to, expenditures for salaries or recurring costs.

**98.22(4) *Mandatory reversion of unused funding.*** The portion of the unexpended general fund balance which is authorized to be transferred and expended shall increase budget authority. However, any part of the amount not actually spent for the authorized purpose shall revert to its former status as part of the unexpended general fund balance, and budget authority will be reduced by the amount not actually spent.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.23(256D,257) Iowa early intervention block grant, also known as early intervention supplement.** Beginning with the fiscal year 2009-2010, the Iowa early intervention block grant program is converted from a grants-in-aid categorical funding to a budgetary allocation categorical funding. The program's goals for kindergarten through grade 3 are to provide the resources needed to reduce class sizes in basic skills instruction to the state goal of 17 students for every one teacher; provide direction and resources for early intervention efforts by school districts to achieve a higher level of student success in the basic skills, especially reading skills; and increase communication and accountability regarding student performance.

**98.23(1) *Appropriate uses of categorical funding.*** Appropriate uses of the Iowa early intervention block grant funding include providing programs, instructional support, and materials at the kindergarten through grade 3 level that include but are not limited to the following:

- a. Additional licensed instructional staff;
- b. Additional support for students, such as before- and after-school programs, tutoring, and intensive summer programs;
- c. The acquisition and administration of diagnostic reading assessments;
- d. The implementation of research-based instructional intervention programs for students needing additional support;
- e. The implementation of all-day, everyday kindergarten programs; and
- f. The provision of intensive training programs to classroom teachers to improve reading instruction and professional development in best practices.

**98.23(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of the Iowa early intervention block grant program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, or administrative costs.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.24(257,284) Teacher salary supplement.** Beginning with the fiscal year 2009-2010, the educational excellence Phase II program and the educator quality basic salary program were combined and converted from grants-in-aid categorical funding to a budgetary allocation categorical funding. Remaining balances in the educational excellence Phase II program and the educator quality basic salary program shall be expended for the same purposes as the teacher salary supplement. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of

a school district and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

**98.24(1) *Appropriate use of categorical funding.*** Appropriate use of the teacher salary supplement funding is limited to additional salary for teachers, including amounts necessary for the district to comply with statutory teacher salary minimums; the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294; and payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10, subsection 4. Teacher salary supplement funding shall be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining and it would not be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency shall carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

**98.24(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of the teacher salary supplement funding include any expenditures other than the appropriate use described in subrule 98.24(1) hereof.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.25(257,284) Educator quality basic salary.** Rescinded IAB 12/15/10, effective 1/19/11.

**281—98.26(257,284) Educator quality professional development, also known as professional development supplement.** Beginning with the fiscal year 2009-2010, the educator quality professional development program, including core curriculum professional development, is converted from a grants-in-aid categorical funding to a budgetary allocation categorical funding.

**98.26(1) *Appropriate uses of categorical funding.*** Appropriate uses of the educator quality professional development funding are limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; pay for substitute teachers, professional development materials, speakers, and professional development content; costs associated with implementing the individual professional development plans; and payments to a whole grade sharing partner school district as negotiated as part of the new or existing agreement pursuant to Iowa Code subsection 282.10(4). The use of the funds shall be balanced between school district, attendance center, and individual professional development plans, and every reasonable effort to provide equal access to all teachers shall be made.

**98.26(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of educator quality professional development funding include, but are not limited to, any expenditures that supplant professional development opportunities the school district otherwise makes available.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.27 to 98.39** Reserved.

DIVISION III  
APPROPRIATE USE OF GRANTS IN AID

**281—98.40(256,257,298A) Grants in aid.** The state provides a large amount of categorical funding for various purposes to school districts and area education agencies in the form of grants in aid. Only those grants in aid allocated to a substantial number of the school districts and area education agencies through the department of education are included in these rules.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.41(257,294A) Educational excellence, Phase I.** Rescinded IAB 12/15/10, effective 1/19/11.

**281—98.42(257,284) Beginning teacher mentoring and induction program.** The purpose of the beginning teacher mentoring and induction program is to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts and area education

agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers.

**98.42(1) *Appropriate uses of categorical funding.*** Appropriate uses of the beginning teacher mentoring and induction program funding include costs to provide each mentor of a beginning teacher with the statutory award for participation in the school district's or area education agency's beginning teacher mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district or area education agency.

**98.42(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of beginning teacher mentoring and induction program funding include any costs not listed in subrule 98.42(1) as appropriate uses.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.43(257,284A) Beginning administrator mentoring and induction program.** The purpose of the beginning administrator mentoring and induction program is to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

**98.43(1) *Appropriate uses of categorical funding.*** Appropriate uses of the beginning administrator mentoring and induction program funding include costs to provide each mentor with the statutory award for participation in the school district's beginning administrator mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district.

**98.43(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of beginning administrator mentoring and induction program funding shall include any costs that are not listed in subrule 98.43(1) as appropriate uses.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.44(257,301) Nonpublic textbook services.** Textbooks adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools.

**98.44(1) *Appropriate uses of categorical funding.*** The appropriate use of the nonpublic textbook services funding shall be for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. "Textbook" means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, other computer courseware and magnetic media, and laptop computers or other portable personal computing devices which are used for nonreligious instructional use only.

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended shall also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

**98.44(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of nonpublic textbook services funding include, but are not limited to, reimbursements to accredited nonpublic schools for purchases made by the accredited nonpublic school, sectarian textbooks, computer hardware other

than laptop computers or other portable personal computing devices which are used for nonreligious instructional use only, installation of hardware or other purchased services, teacher manuals or any other materials not available to the students attending the accredited nonpublic school, or any other expenditure that does not fit the definition of textbook. Funding provided for one nonpublic school located within the boundaries of the public school district shall not be used for another accredited nonpublic school, even if the accredited nonpublic school is associated with the same parent organization.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.45 to 98.59** Reserved.

DIVISION IV  
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

**281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds.** Tax levies or funds that are required by law to be expended only for the specific items listed in statute shall be accounted for in a similar way to categorical funding. Each fund is mutually exclusive and completely independent of any other fund. No fund shall be used as a clearing account for another fund, no fund may retire the debt of another fund unless specifically authorized in statute, and transfers between funds shall be accomplished only as authorized in statute.

[ARC 8054B, IAB 8/26/09, effective 9/30/09; ARC 9267B, IAB 12/15/10, effective 1/19/11]

**281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund.** All moneys received by a school corporation from taxes and other sources shall be accounted for in the general fund, except moneys required by law to be accounted for in another fund. If another fund specifically lists an expenditure to that other fund, it is assumed not to be appropriate to the general fund unless statute expressly states that it is an appropriate general fund expenditure. Each school district and each area education agency shall have only one general fund.

**98.61(1) Sources of revenue in the general fund.** Sources of revenue in the general fund include all moneys not required by law to be accounted for in another fund and interest on the investment of those moneys. Proceeds from the sale or disposition of property other than real property, proceeds from the lease of real or other property, compensation or rent received for the use of school property, sales of school supplies, and sales or rentals of textbooks shall be accounted for in the general fund. Proceeds for loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the general fund. Any revenue or receipt described in law as “miscellaneous income” or related to modified allowable growth is restricted to the general fund.

**98.61(2) Appropriate uses of the general fund.** Appropriate expenditures in the general fund include, but are not limited to, the following:

- a. Providing day-to-day operations to the district or area education agency, such as salaries, employee benefits, purchased services, supplies, and expenditures for instructional equipment.
- b. Purchasing school buses from unobligated funds on hand.
- c. Establishing and maintaining dental clinics for children and offering courses of instruction on oral hygiene.
- d. Employing public health nurses.
- e. Funding insurance agreements if the district has not certified a district management levy.
- f. Purchasing books and other supplies to be loaned, rented, or sold at cost to students.
- g. Purchasing safety eye-protective devices and safety ear-protective devices.
- h. Purchasing bonds and premiums for bonds for employees who have custody of funds belonging to the school district or area education agency or funds derived from extracurricular activities and other sources in the conduct of their duties.
- i. Paying assessed costs related to changes in boundaries, reorganization, or dissolution.

*j.* Publishing the notices and estimates and the actual and necessary expenses of preparing the budget.

*k.* Engraving and printing school bonds, in the case of a school district.

*l.* Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48 and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, where the original proceeds were accounted for in the general fund.

*m.* Transferring interest and principal to the debt service fund when due for lease purchase agreements related to capital projects authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.

*n.* Funding asbestos projects including the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, and developing of management plans and record-keeping requirements relating to the presence of asbestos in school buildings and its removal or encapsulation.

*o.* Funding energy conservation projects entered into with the department of natural resources or its duly authorized agents or representatives pursuant to Iowa Code section 473.20, in the case of a school district.

*p.* Transferring to a capital projects fund as authorized by the school budget review committee, in the case of a school district.

*q.* Transferring to a capital projects fund as funds are due to be expended on a capital project authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.

*r.* Paying any other costs not required to be accounted for in another fund.

**98.61(3)** *Inappropriate uses of the general fund.* Inappropriate expenditures in the general fund include the following:

*a.* Purchasing land or improvements other than land for student construction projects.

*b.* Purchasing or constructing buildings or for capital improvements to real property except under special circumstances authorized by the school budget review committee, in the case of a school district, or except as authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.

*c.* Modifying or remodeling school buildings or classrooms even if to make them accessible.

*d.* Paying interest and principal on long-term indebtedness for which the original proceeds were not accounted for in the general fund.

*e.* Funding lease-purchases.

*f.* Purchasing portable buildings.

*g.* Paying individuals or private organizations that are not audited and allowed and related to goods received or services rendered.

*h.* Paying other costs that are not operating or current expenditures for public education and are not expressly authorized in the Iowa Code.

**98.61(4)** *Special levies.* The general fund includes two special levy programs available to school districts, but not to area education agencies, that are restricted by the Iowa Code.

*a.* *Instructional support program.* The instructional support program is a district-initiated program to provide additional funding to the district's general fund.

(1) Appropriate uses of instructional support program funding. Moneys received by a district for the instructional support program may be used for any general fund purpose except those listed as inappropriate uses in paragraph "b," subparagraph (2).

(2) Inappropriate uses of instructional support program funding. Moneys received by a district for the instructional support program shall not be used as, or in a manner which has the effect of, supplanting funds authorized to be received under Iowa Code sections 257.41 (returning dropouts and dropout prevention programs), 257.46 (gifted and talented programs), 298.4 (management fund levy), and 298.2 (physical plant and equipment fund levy), or to cover any deficiencies in funding for special education instructional services resulting from the application of the special education weighting plan under Iowa Code section 256B.9.

*b. Educational improvement program.* The educational improvement program is a district-initiated program available to districts in special circumstances to provide additional funding to the district's general fund if the district already has the instructional support program in place.

(1) Appropriate uses of educational improvement program funding. Moneys received by a district for the educational improvement program may be used for any general fund purpose.

(2) Inappropriate uses of educational improvement program funding. Inappropriate uses of educational improvement program funding include any expenditure not appropriate to the general fund. [ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.62(279,296,298,670) Management fund.** The purpose of this fund is to pay the costs of unemployment benefits; early retirement benefits; insurance agreements; liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards; and judgments or settlements relating to such liability. The authority to establish a management fund is available to school districts but not to area education agencies.

**98.62(1) Sources of revenue in the management fund.** Sources of revenue in the management fund include a property tax and interest on the investment of those moneys.

**98.62(2) Appropriate uses of the management fund.** Appropriate expenditures in the management fund include the following:

- a.* Costs of unemployment benefits as provided in Iowa Code section 96.31.
- b.* Costs of liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards.
- c.* Costs of a final court judgment entered against the district or a settlement made for a tort liability claim including interest accruing on the judgment or settlement to the expected date of payment.
- d.* Costs, including prepaid costs, of insurance agreements to protect the school districts from tort liability, loss of property, environmental hazards, or other risk associated with operations, but not including employee benefit plans.
- e.* Costs of early retirement benefits to employees under Iowa Code section 279.46 to pay a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging employees to retire before the normal retirement date for employees within the age range of 55 to 65 who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following school calendar.
- f.* Costs of a physical inventory conducted solely for the purpose of insurance.
- g.* Transfers to the debt service fund for payment of principal and interest when due on general obligation bonds issued under Iowa Code section 296.7 to protect the school district from tort liability, loss of property, environmental hazards, or other risk associated with operations.
- h.* Transfers to the appropriate fund for the portion of an insurance claim which was eligible under the insurance agreement but was denied because it was within the deductible limit.

**98.62(3) Inappropriate uses of the management fund.** Inappropriate expenditures in the management fund include the following:

- a.* Costs for employee health benefit plans.
- b.* Costs to conduct physical inventories of property for purposes other than insurance.
- c.* Costs to conduct actuarial studies.
- d.* Costs for supplies or capital outlay.
- e.* Transfer to a trust fund for other postemployment benefit (OPEB) cost or estimated cost calculated pursuant to Governmental Accounting Standards Board (GASB) Statement 45.
- f.* Any other costs not expressly authorized in the Iowa Code.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.63(298) Library levy fund.** The board of directors of a school district in which there is no free public library may contract with any free public library for the free use of such library by the residents of the school district and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board shall certify annually a tax sufficient to pay the library the agreed-upon consideration.

**98.63(1) Sources of revenue in the library levy fund.** Sources of revenue in the library levy fund include a property tax not to exceed \$0.20 per \$1000 of assessed value of the taxable property of the district and interest on the investment of those moneys.

**98.63(2) Appropriate uses of the library levy fund.** Appropriate expenditures in the library levy fund include expenditures necessary to provide a free public library.

**98.63(3) Inappropriate uses of the library levy fund.** Inappropriate expenditures in the library levy fund include the following:

- a. Capital expenditures related to land or buildings.
- b. Debt service.
- c. Any other costs not necessary to provide a free public library.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.64(279,283,297,298) Physical plant and equipment levy (PPEL) fund.** The physical plant and equipment levy (PPEL) consists of the regular PPEL not to exceed \$0.33 per \$1000 of assessed valuation and a voter-approved PPEL not to exceed \$1.34 per \$1000 of assessed valuation, for a total of \$1.67. The authority to establish a PPEL fund is available to school districts but not to area education agencies.

**98.64(1) Sources of revenue in the PPEL fund.** Sources of revenue in the PPEL fund include a property tax, income surtax, and interest on the investment of those moneys, and proceeds from loan agreements in anticipation of the collection of the voter-approved property. Proceeds from the condemnation, sale or disposition of real property are revenue to the PPEL fund. Proceeds from loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the PPEL fund. If the school board intends to enter into a rental, lease, or loan agreement, only a property tax shall be levied for those purposes.

**98.64(2) Appropriate uses of the PPEL fund.** Appropriate expenditures in the PPEL fund include the following:

a. Purchase of grounds including the legal costs relating to the property acquisition, costs of surveys of the property, costs of relocation assistance under state and federal law, and other costs incidental in the property acquisition.

b. Improvement of grounds including grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks which are not parts of building service systems; demolition work; and special assessments against the school district for public improvements.

c. Construction of schoolhouses or buildings.

d. Construction of roads to schoolhouses or buildings.

e. Purchasing, leasing, or lease-purchasing a single unit of equipment or a single unit of technology exceeding \$500 in value per unit. "Single unit of equipment" means both equipment and furnishings and does not include bulk purchases or multiple purchases of units. The cost limitation for a single unit of equipment does not apply to recreational equipment or equipment that becomes an integral part of real property such as furnaces, boilers, water heaters, and central air-conditioning units that are included in repairs to a building.

f. Transferring to debt service for payments, when due, of debts contracted for the erection or construction of schoolhouses or buildings, not including interest on bonds.

g. Procuring or acquisition of library facilities.

h. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and the additions to existing schoolhouses. "Repairing" means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance. "Reconstructing" means rebuilding or restoring as an entity a thing which was lost or destroyed.

- i.* Energy conservation projects.
- j.* Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48, for loans in anticipation of the collection of the voter-approved property under Iowa Code section 297.36, and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, when the original proceeds were accounted for in the PPEL fund.
- k.* The rental of facilities under Iowa Code chapter 28E.
- l.* Purchase of transportation equipment for transporting students.
- m.* Purchase of buildings or lease-purchase option agreements for school buildings.
- n.* Purchase of equipment for recreational purposes.
- o.* Payments to a municipality or other entity as required under Iowa Code section 403.19, subsection 2.
- p.* Asbestos projects including costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, development of management plans and record-keeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.
- q.* Purchase, erect, or acquire a building for use as a school meal facility, and equip a building for that use.

**98.64(3) *Inappropriate uses of the PPEL fund.*** Inappropriate expenditures in the PPEL fund include the following:

- a.* Student construction.
- b.* Salaries and benefits.
- c.* Travel.
- d.* Supplies.
- e.* Facility, vehicle, or equipment maintenance.
- f.* Printing costs or media services.
- g.* Any other purpose not expressly authorized in the Iowa Code.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.65(276,300) Public educational and recreational levy (PERL) fund.** Boards of directors of school districts may establish and maintain for children and adults public recreation places and playgrounds, and necessary accommodations for the recreation places and playgrounds, in the public school buildings and on the grounds of the district. Financial support for the community education program shall be provided from funds raised pursuant to Iowa Code chapter 300 and from any private funds and any federal funds made available for the purpose of implementing community education. The authority to establish a levy for a PERL fund is available to school districts but not to area education agencies.

**98.65(1) *Sources of revenue in the PERL fund.*** Sources of revenue in the PERL fund include a property tax levy not to exceed \$0.135 per \$1000 of assessed valuation, any appropriation by the agencies involved in a cooperative effort under Iowa Code chapter 28E, federal grants, donations, and interest on the investment of those moneys.

**98.65(2) *Appropriate uses of the PERL fund.*** Appropriate expenditures in the PERL fund include the following:

- a.* Establishing and maintaining free public recreation places and playgrounds, including necessary accommodations.
- b.* Providing free public educational and recreational activities.
- c.* Establishing and supervising a free community education program.
- d.* Providing a community education director if a community education program is established.

**98.65(3) *Inappropriate uses of the PERL fund.*** Inappropriate expenditures in the PERL fund include the following:

- a.* Programs for which a fee may be charged such as before- and after-school programs and preschool programs.

b. Any other costs not necessary to provide free programs for community education and for public recreation places, playgrounds, and programs.  
[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.66(257,279,298A,565) District support trust fund.** The district support trust fund is used to account for moneys received in trust where those moneys, both principal and interest, are to benefit the school district. The school district or area education agency shall not transfer its own resources to a district support trust fund. If the school district or area education agency has more than one district support trust, it will use locally assigned project codes pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies to identify the different trusts in the same fund. The district support trust fund is not an irrevocable trust. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in the district support trust fund. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility as the trustee.

**98.66(1) Sources of revenue in the district support trust fund.** Sources of revenue in the district support trust fund include donations of cash, investment instruments, property, and interest on investments held. In a district support trust fund, both principal and interest are available to benefit the school district's programs.

**98.66(2) Appropriate uses of the district support trust fund.** Appropriate expenditures in the district support trust fund include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

**98.66(3) Inappropriate uses of the district support trust fund.** Inappropriate expenditures in the district support trust fund include transfers to nonprofit or private organizations or any expenditure which is not consistent with the terms of the agreement, legal to a school district, or for the benefit of the school district.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.67(257,279,298A,565) Permanent funds.** Permanent funds are used to account for resources received that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the school district's programs. The school district or area education agency shall not transfer its own resources to a permanent fund. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in permanent funds. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility of the moneys.

**98.67(1) Sources of revenue in the permanent funds.** Sources of revenue in the permanent funds include donations of cash, investment instruments, property, and interest on investments held. In permanent funds, only interest is available to benefit the school district's programs.

**98.67(2) Appropriate uses of the permanent funds.** Appropriate expenditures in the permanent funds include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

**98.67(3) Inappropriate uses of the permanent funds.** Inappropriate expenditures in the permanent funds include transfers to nonprofit or private organizations, expenditure from principal, or any expenditure which is not consistent with the terms of the agreement, or legal to a school district, or for the benefit of the school district, or any expenditure from the principal portion.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.68(76,274,296,298,298A) Debt service fund.** A debt service fund is used to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest. A school district or area education agency shall have only one debt service fund.

**98.68(1) Sources of revenue in the debt service fund.** Sources of revenue in the debt service fund include the levy on taxable property authorized by the voters pursuant to Iowa Code section 298.21 and necessary to service bonds that mature in the current year, transfers from other funds for payments of interest and principal when due that are required under a loan, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code, and earnings from temporary investment of moneys in the debt service fund.

**98.68(2) Appropriate uses of the debt service fund.** Appropriate expenditures in the debt service fund include the following:

*a.* Payment of principal and interest of the lawful bonded indebtedness maturing in the current year as it becomes due. In determining how much is necessary to service bonds that mature in the current year, the board of directors shall consider the amount of earnings from temporary investments of debt service funds and beginning cash balances.

*b.* Payment of costs of registration of public bonds or obligations.

*c.* Payment of additional amounts as the board deems necessary to apply on the principal.

*d.* Payment of principal and interest when due that are required under a loan agreement, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code other than bonded indebtedness paid from resources transferred for that purpose to the debt service fund from other funds.

*e.* Payment of transfers to the PPEL fund by board resolution when funds remain in the debt service fund after payment of the entire balance of outstanding debt in accordance with the original purpose of the bonded indebtedness and after return of any excess amount transferred into the debt service fund from another fund or other indebtedness. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund pursuant to Iowa Code subsection 278.1(1) "e."

**98.68(3) Inappropriate uses of the debt service fund.** Inappropriate expenditures in the debt service fund include payment of debt issued by one fund from resources transferred from a different fund unless expressly authorized by the Iowa Code and any other expenditure not listed in subrule 98.68(2).

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.69(76,273,298,298A,423E,423F) Capital projects fund.** Capital projects funds are used to account for financial resources to acquire or construct major capital facilities and to account for revenues from the previous local option sales and services tax for school infrastructure and the current state sales and services tax for school infrastructure. Boards of directors of school districts are authorized to establish more than one capital projects fund as necessary.

**98.69(1) Sources of revenue in the capital projects fund.** Sources of revenue in a capital projects fund include sale of general obligation bonds, grants and donations for capital facility projects, and transfers from other funds which authorized indebtedness for capital facility projects or which initiated a capital facility project or which received grants or other funding for capital projects, and tax receipts or revenue bonds issued for the state sales and services tax for school infrastructure. In the case of an area education agency, transfers from the general fund to a capital projects fund are limited to payments from proceeds accounted for in the general fund when payments are due on a capital project under a lease-purchase agreement pursuant to Iowa Code subsection 273.3(7).

**98.69(2) Appropriate uses of the capital projects fund.**

*a.* Appropriate expenditures in a capital projects fund, excluding state/local option sales and services tax for school infrastructure fund, include the following:

(1) Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, or teachers' or superintendents' home(s).

(2) Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

(3) Transferring to the PPEL fund or debt service fund by board resolution any balance remaining in a capital projects fund after the capital project is completed and after return of any excess amount transferred into the capital projects fund from another fund. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund or debt service fund pursuant to Iowa Code subsection 278.1(1)“e.”

*b.* Appropriate expenditures in the state/local option sales and services tax for the school infrastructure capital projects fund shall be expended in accordance with a valid revenue purpose statement if a valid revenue purpose statement exists, otherwise appropriate expenditures include the following in order:

(1) Payment of principal and interest on revenue bonds issued pursuant to Iowa Code sections 423E.5 and 423F.4 for which the revenue has been pledged.

(2) Reduction of debt service levies.

(3) Reduction of regular and voter-approved PPEL levies.

(4) Reduction of the PERL levy.

(5) Reduction of any schoolhouse tax levy under Iowa Code subsection 278.1(1)“e.”

(6) Any authorized infrastructure purpose of the district pursuant to Iowa Code subsection 423F.3(6), which includes the following:

1. Payment or retirement of outstanding general obligation bonded indebtedness issued for school infrastructure purposes.

2. Payment or retirement of outstanding revenue bonds issued for school infrastructure purposes.

3. Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, remodeling, or demolition of a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, or school bus garage.

4. Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

5. Expenditures listed in Iowa Code section 298.3.

6. Expenditures listed in Iowa Code section 300.2.

**98.69(3)** *Inappropriate uses of the capital projects fund.* Inappropriate expenditures in a capital projects fund include student construction or any expenditure not expressly authorized in the Iowa Code. Additionally, expenditures from the state/local options sales and services tax supplemental school infrastructure amount for new construction or for payments for bonds issued for new construction in any district that has a certified enrollment of fewer than 250 pupils in the district or a certified enrollment of fewer than 100 pupils in the high school without a certificate of need issued by the department of education. This restriction does not apply to payment of outstanding general obligation bonded indebtedness issued pursuant to Iowa Code section 296.1 before April 1, 2003. This restriction also does not apply to costs to repair school buildings; purchase of equipment, technology or transportation equipment authorized under Iowa Code section 298.3; or for construction necessary to comply with the federal Americans With Disabilities Act. Expenditures from the state/local options sales and services tax revenues have the same restriction as expenditures from the supplemental school infrastructure amount, excluding the restriction on payments for bonds issued for new construction.  
[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.70(279,280,298A) Student activity fund.** The student activity fund must be established in any school district receiving moneys from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys collected through school activities are public funds that are the property of the school district and are under the financial control of the school board. Upon dissolution of an activity, such as a graduating class or student club, the surplus must be used to support other student activities in the student activity fund. Prudent and proper accounting of all receipts and expenditures in these accounts is the responsibility of the board. School districts may maintain subsidiary records for student activities

if those records are reconciled to the official records on a monthly basis; however, all official accounting records of the student activity fund shall be maintained within the school district's chart of account pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies.

**98.70(1)** *Sources of revenue in the student activity fund.* Sources of revenue in the student activity fund include income derived from student activities such as gate receipts, ticket sales, admissions, student club dues, donations, fund-raising events, and any other receipts derived from student body cocurricular or extracurricular activities, contests, and exhibitions as well as interest on the investment of those moneys.

**98.70(2)** *Appropriate uses of the student activity fund.* Appropriate expenditures in the student activity fund include ordinary and necessary expenses of operating school district-sponsored and district-supervised student cocurricular and extracurricular activities, including purchasing services from another school district to provide for the eligibility of enrolled students in interscholastic activities provided by the other school district when that school district does not provide an interscholastic activity for its students.

**98.70(3)** *Inappropriate uses of the student activity fund.* Inappropriate expenditures in the student activity fund include the following:

- a. Maintenance of funds raised by outside organizations.
- b. The cost of bonds for employees having custody of funds derived from cocurricular and extracurricular activities in the conduct of their duties. These are costs to the general fund.
- c. Expenditures that lack public purpose.
- d. Payments to any private organization unless a fundraiser was held expressly for that purpose and the purpose of the fundraiser was specifically identified.
- e. Transfers to any other fund of any surplus within the fund.
- f. Payments more properly accounted for in another fund such as public tax funds, trust funds, state and federal grants, textbook/library book fines, fees, rents, purchases or sales, sales of school supplies, or curricular activities.
- g. Use of the student activity fund as a clearing account for any other fund.
- h. Cash payments to student members of activity groups.
- i. The cost of optional equipment or customizing uniforms.
- j. The cost of uniforms when the following two tests are not met:
  - (1) The activity is a part of the school's educational program, and
  - (2) The wearing of the uniform or equipment is necessary in order to participate.
- k. Hospital or medical claims for student injuries or procurement of student medical insurance.
- l. Optional costs related to activities that are not necessary to the cocurricular and extracurricular program such as promotional costs.
- m. Membership fees in student activity-related associations if the fees are optional, i.e., nonmember schools may participate in sponsored events.
- n. Costs to participate in or to allow students to participate in any cocurricular and extracurricular interscholastic athletic contest or competition not sponsored or administered by either the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.71(256B,257,298A) Special education instruction fund.** The special education instruction fund is used to account for the revenues and expenditures of the special education instructional program that an area education agency provides for its member districts under Iowa Code subsection 273.9(2). This does not include special education support services as provided by Iowa Code subsection 273.9(3) which are accounted for in the general fund.

**98.71(1)** *Sources of revenue in the special education instruction fund.* Sources of revenue in the special education instruction fund include tuition charged to districts with students in the special education instruction program and interest on the investment of those moneys.

**98.71(2)** *Appropriate uses of the special education instruction fund.* Appropriate expenditures in the special education instruction fund include those authorized to a school district pursuant to Iowa Code chapter 256B and 281—Chapter 41.

**98.71(3)** *Inappropriate uses of the special education instruction fund.* Inappropriate expenditures in the special education instruction fund include expenditures not allowed to school districts pursuant to Iowa Code chapter 256B and 281—Chapter 41.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.72(282,298A) Juvenile home program instruction fund.** The juvenile home program instruction fund is used to account for the revenues and expenditures for the educational program for students residing in juvenile homes as provided by Iowa Code section 282.30. The juvenile home program supplements, but does not supplant expenditures required of an area education agency under Iowa Code chapter 273. Revenues and expenditures related to federal or state grants serving students in the juvenile homes that supplement, rather than supplant the juvenile home program are included in the general fund, rather than the juvenile home fund.

**98.72(1)** *Sources of revenue in the juvenile home program instruction fund.* Sources of revenue in the juvenile home program instruction fund include an advance paid pursuant to Iowa Code section 282.31, tuition billed to resident districts, grants in aid and interest on the investment of those moneys.

**98.72(2)** *Appropriate uses of the juvenile home program instruction fund.* Appropriate expenditures in the juvenile home program instruction fund include ordinary and necessary expenditures to provide an instructional program to students residing in juvenile homes.

**98.72(3)** *Inappropriate uses of the juvenile home program instruction fund.* Inappropriate expenditures in the juvenile home program instruction fund include the following:

*a.* Costs estimated or allocated that are expenditures of the agency, such as insuring agency property.

*b.* Costs that are not ordinary and necessary to provide instruction.

*c.* Debt service.

*d.* Capital outlay related to facilities.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.73(283A,298A) School nutrition fund.** All school districts shall operate or provide for the operation of lunch programs at all attendance centers in the school district. A school district may operate or provide for the operation of school breakfast programs at all attendance centers in the district, or provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program.

**98.73(1)** *Sources of revenue in the school nutrition fund.* Sources of revenue in the school nutrition fund include food sales to pupils and adults, ancillary food services, state and federal grants in aid for the operation of a nutrition program, gifts, sales of services to other funds, donated government commodities, and interest on investment of school nutrition fund moneys. Also included are fees charged for providing food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board. The charges for such services must be no less than the actual costs involved in providing the services including the value of donated government commodities.

**98.73(2)** *Appropriate uses of the school nutrition fund.* Appropriate expenditures in the school nutrition fund include the following:

*a.* Expenditures necessary to operate a school breakfast or lunch program such as salaries and benefits for employees necessary to operate the food service program, food, purchased services, supplies, and school nutrition equipment not included in Iowa Code section 283A.9.

*b.* Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board of directors of the school district if those costs are reimbursed by another fund, organization, or individual.

**98.73(3)** *Inappropriate uses of the school nutrition fund.* Inappropriate expenditures in the school nutrition fund include the following:

*a.* Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises at less than actual costs involved in providing the services including the value of donated government commodities.

*b.* Operating transfers to any other fund.

*c.* Costs to purchase, construct, reconstruct, repair, remodel, or otherwise acquire or equip a building for use as a school meal facility. These costs are permitted from the PPEL fund.

*d.* Costs estimated or allocated that are expenditures of the district.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.74(279,298A) Child care and before- and after-school programs fund.** The board of directors of a school district may operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade 6 before and after school, or to both.

**98.74(1) Sources of revenue in the child care fund.** Sources of revenue in the child care fund include a fee established by the board for the cost of participation in the program. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed-upon fee. The board may require the parent or guardian to furnish transportation of the child. If the board does not establish a fee, it must finance the program through grants or donations. The board may utilize or make application for program subsidies from any existing child care funding streams.

**98.74(2) Appropriate uses of the child care fund.** Appropriate expenditures in the child care fund include salaries and benefits for employees necessary to operate the child care program or before- and after-school program, purchased services, supplies, and equipment.

**98.74(3) Inappropriate uses of the child care fund.** Inappropriate expenditures in the child care fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the child care program or before- and after-school program.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.75(298A) Regular education preschool fund.** The board of directors of a school district may establish a preschool for students who are not of school age.

**98.75(1) Sources of revenue in the regular education preschool fund.** Sources of revenue in the regular education preschool fund include a fee established by the board for the cost of participation in the program. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed-upon fee. If the board does not establish a fee, it must finance the program through grants or donations. The statewide voluntary four-year-old preschool program established under Iowa Code chapter 256C shall not be accounted for in the regular education preschool fund.

**98.75(2) Appropriate uses of the regular education preschool fund.** Appropriate expenditures in the regular education preschool fund include salaries and benefits for employees necessary to operate the regular education preschool program, purchased services, instructional supplies, and instructional equipment.

**98.75(3) Inappropriate uses of the regular education preschool fund.** Inappropriate expenditures in the regular education preschool fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the regular education preschool program or before- and after-school program.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.76(298A) Student construction fund.** If the board of directors of a school district establishes a construction program whereby students learn a construction trade and the facility constructed is sold to cover costs of construction, the revenues and expenses will be accounted for in the student construction fund.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.77(298A) Other enterprise funds.** Enterprise funds are used to account for any activity for which a fee is charged to external users for goods and services. Enterprise funds are required to be used to account for any activity whose principal revenue sources are fees and charges to recover the costs of providing goods or services where those fees and charges are permitted by the Iowa Code. Funds discussed in rules 281—98.73(283A,298A) through 281—98.76(298A) are enterprise funds. In addition, enterprise funds include those activities related to community service enterprises or enterprises that support the school curricular program. Community service enterprises are activities provided by the district for a fee to the general community or segment of the community that are not in the PERL or library funds such as public libraries, community pool, community wellness center, and community or adult education. Enterprises that support the school program include activities such as a student farm, greenhouse, cooperative purchasing, school stores, or major resale activities.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.78 to 98.81** Reserved.

**281—98.82(298A) Internal service funds.** Internal service funds are used to account for the financing of services provided within the district to provide goods or services to other funds, component units, or other governments on a cost-reimbursement basis. The use of an internal service fund is appropriate only for activities in which the agency, school district or area education agency is the predominant participant in the activity. If the district or area education agency is not the primary user of the goods or services provided by the internal service fund, then the activity should be accounted for in an enterprise fund rather than an internal service fund. Internal service funds include, but are not limited to, self-insurance funds, flex-benefit (cafeteria) plan funds, print shops, health reimbursement arrangements (HRAs), central warehousing and purchasing, and central data processing.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.83 to 98.91** Reserved.

**281—98.92(257,279,298A,565) Private purpose trust funds.** Private purpose trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are not irrevocable trusts and are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and therefore cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. Scholarship trust funds are an example of private purpose trust funds. If a school district has more than one scholarship trust, the school district shall use project codes in accordance with Uniform Financial Accounting for Iowa School Districts and Area Education Agencies to separately account for the trusts. The district or area education agency shall not transfer its own resources to a private purpose trust fund.

**98.92(1) Sources of revenue in private purpose trust funds.** Sources of revenue in the private purpose trust fund include donations of cash, investment instruments, property, and interest on investments held.

**98.92(2) Appropriate uses of private purpose trust funds.** Appropriate expenditures in the private purpose trust fund include those that are consistent with the terms of the agreement or are for the benefit of a private purpose other than the school district. None of the expenditures will be for the benefit of the school district's programs.

**98.92(3) Inappropriate uses of private purpose trust funds.** Inappropriate expenditures in the private purpose trust fund include any expenditure which is not consistent with the terms of the agreement, not legal to a school district, or that benefits the school district's programs.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.93(298A) Other trust funds.** Trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are used to account for

assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. The school district or area education agency shall not transfer its own resources to a trust fund. Other trust funds may include but not be limited to pension trust funds and investment trust funds. Pension trust funds are used to account for resources that are required to be held in trust for members and beneficiaries of defined benefit pension plans, defined contribution plans, other postemployment benefit plans, or other benefit plans. Typically, these pension trust funds are used to account for local pension and other employee benefit funds that are provided by a school district in lieu of or in addition to any state retirement system. Investment trust funds are used to account for the external portion (i.e., the portion that does not belong to the school district) of investment pools operated by the school district.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.94 to 98.100** Reserved.

**281—98.101(298A) Agency funds.** Agency funds are used to account for funds that are held in a custodial capacity by the school district for individuals, private organizations, or other governments. Agency funds may include moneys collected for another government, a grant consortium when the school district serves as fiscal agent for the other school districts but has no managerial responsibilities, or funds for a teacher or a parent-teacher organization which has its own federal identification number (FIN). In an agency fund, the school district or area education agency merely renders a service as a custodian of the assets for the organization owning the assets and the school district or area education agency is not an owner. Agency funds typically involve only the receipt, temporary investment and remittance of assets to their rightful owners.

**98.101(1) Sources of receipts in agency funds.** Sources of receipts in the agency funds include temporary receipts of cash, investment instruments, property, and interest on investments held.

**98.101(2) Appropriate uses of agency funds.** Appropriate disbursements from an agency fund depend on the nature of the rightful owners' conditions or the responsibilities of the custodian. Typically, disbursement will involve remittance of assets to their rightful owners or to a third party on behalf and at the request of the rightful owners. The school district cannot disburse more funds at any point in time than it has received from the rightful owner.

**98.101(3) Inappropriate uses of agency funds.** Inappropriate disbursements from agency funds include any disbursement which is not consistent with the terms of the agreement, not legal to a school district, or that exceeds the amount of funds that have been received from the rightful owner or on behalf of the rightful owner.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.102 to 98.110** Reserved.

**281—98.111(24,29C,257,298A) Emergency levy fund.** A school district may levy a tax for the emergency fund upon the approval of the state appeals board. Once the levy has been received, the district may request approval of the school budget review committee to transfer the funds to any other fund of the district for the purpose of meeting deficiencies in a fund arising within two years of a disaster as defined in Iowa Code subsection 29C.2(1).

**98.111(1) Sources of revenue in the emergency levy fund.** Sources of revenue for the emergency levy fund include a tax levy not to exceed \$0.27 per \$1000 of assessed value of taxable property, and interest on those moneys.

**98.111(2) Appropriate uses of emergency levy fund.** Appropriate expenditures in the emergency levy fund include only transfers to other funds for the purpose of meeting deficiencies in a fund arising within two years of a disaster and upon the approval of the school budget review committee.

**98.111(3) *Inappropriate uses of emergency levy fund.*** Inappropriate expenditures in the emergency levy fund include any expenditures other than a transfer to another fund and any transfer not approved by the school budget review committee.

[ARC 8054B, IAB 8/26/09, effective 9/30/09]

**281—98.112(275) Equalization levy fund.** If necessary to equalize the division of liabilities and distribution of assets in a reorganization, merger, or dissolution, the board of a school district may provide for the levy of additional taxes upon the property of the former district so as to effect equalization pursuant to Iowa Code section 275.31. Once the levy has been received, the district shall transfer the funds before the end of the fiscal year to the funds for which equalization was necessary and for which the taxes were levied.

**98.112(1) *Sources of revenue for the equalization levy fund.*** Sources of revenue for the equalization levy fund include a tax levy pursuant to Iowa Code section 275.31, and interest on those moneys.

**98.112(2) *Appropriate uses of the equalization levy fund.*** Appropriate expenditures from the equalization levy fund are limited to transfers to the funds, in the same proportion, for which equalization was necessary and for which the taxes were levied.

**98.112(3) *Inappropriate uses of the equalization levy fund.*** Inappropriate uses of the equalization levy fund would include transfers to any fund for which equalization was not required or for which the equalization tax was not levied and any uses other than transfers.

[ARC 8054B, IAB 8/26/09, effective 9/30/09 (See Delay note at end of chapter)]

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A as amended by 2010 Iowa Acts, Senate File 2376, section 40, 300, 301 as amended by 2010 Iowa Acts, Senate File 2178, 423E, 423F, 565, and 670 and sections 11.6(1)“a”(1), 256C.4(1)“c,” 256D.4(3) and 284.13.

[Filed ARC 8054B (Notice ARC 7781B, IAB 5/20/09), IAB 8/26/09, effective 9/30/09]<sup>1</sup>

[Editorial change: IAC Supplement 9/23/09]

[Editorial change: IAC Supplement 12/30/09]

[Filed ARC 9267B (Notice ARC 9017B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

<sup>1</sup> September 30, 2009, effective date of 281—98.12(257,299A) and 281—98.112(275) delayed 70 days by the Administrative Rules Review Committee at its meeting held September 8, 2009. At its meeting held December 8, 2009, the Committee voted to delay the effective date of 281—98.12(257,299A) until the adjournment of the 2010 Session of the General Assembly.

CHAPTER 221  
FLAMMABLE AND COMBUSTIBLE LIQUIDS

**661—221.1(101) Scope.** This chapter provides the rules of the fire marshal for safe transportation, storage, handling, and use of flammable and combustible liquids. IFC, 2006 edition, sections 102.1 and 102.2, is adopted by reference.

**661—221.2(101) Definitions.** The following definitions shall apply to rules 661—221.1(101) through 661—221.8(101). These definitions are adopted in addition to those which appear in the International Fire Code, 2006 edition; NFPA 30, Flammable and Combustible Liquids Code, 2003 edition; and NFPA 30A, Code for Motor Fuel Dispensing and Repair Garages, 2003 edition. If a definition adopted in this rule conflicts with a definition included in a code or standard adopted by reference in this chapter, the definition found in this rule shall apply.

*“Fire code official”* means any employee of the fire marshal division of the department of public safety, of any local fire department, or of the department of natural resources if the employee is operating under an agreement between the department of public safety and the department of natural resources.

*“ICC”* means the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

*“IFC”* means the International Fire Code, published by the ICC. *“IFC”* will be followed by a year (e.g., IFC, 2006), which indicates the specific edition of the IFC to which reference is made.

*“Mobile air-conditioning system”* means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle.

*“NFPA”* means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form *“NFPA xx,”* where *“xx”* is a number, refer to the NFPA standard or pamphlet of the corresponding number.

*“SPCC plan”* means a spill prevention, control and countermeasure plan, as defined in 40 CFR 112, published January 1, 2007.

*“Under dispenser containment”* or *“UDC”* means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater.

**661—221.3(101) Flammable and combustible liquids.** The International Fire Code, 2006 edition, published by the ICC, Chapter 34 and references contained therein, and NFPA 30, Flammable and Combustible Liquids Code, 2003 edition and references contained therein, are adopted by reference as the rules for transportation, storage, handling, and use of flammable and combustible liquids. In any case in which a provision of the IFC conflicts with a provision of NFPA 30, the IFC provision shall apply. Any refinery shall comply with the provisions of this rule and with any applicable provisions of 661—Chapter 201.

**221.3(1)** The IFC, 2006 edition, is adopted with the following amendments:

*a.* In section 3402.1, amend the following definitions:

(1) Delete the definition of combustible liquid and insert in lieu thereof the following:

COMBUSTIBLE LIQUID. A liquid having a closed cup flash point at or above 100°F (38°C) and below 200°F (93°C). Combustible liquids shall be subdivided as follows:

Class II. Liquids having a closed cup flash point at or above 100°F (38°C) and below 140°F (60°C).

Class IIIA. Liquids having a closed cup flash point at or above 140°F (60°C) and below 200°F (93°C).

The category of combustible liquids does not include compressed gases or cryogenic fluids.

(2) Delete the definition of refinery and insert in lieu thereof the following:

REFINERY. A plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline or other sources, or in which flammable or combustible liquids are used to produce on a commercial scale fuels intended for use in motor vehicles, whether or not those fuels are flammable or combustible liquids.

*b.* Delete section 3403.1 and insert in lieu thereof the following:

3403.1 Electrical. Electrical wiring and equipment shall be installed and maintained in accordance with NFPA 70, National Electrical Code, 2005 edition, published by NFPA.

*c.* Add the following new sections:

3403.6.12 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

3403.6.13 Any new or replacement piping connected to an aboveground storage tank shall be double-walled unless it lies entirely within the area of secondary containment.

3403.6.14 Any device dispensing Class I or Class II flammable liquids shall not be constructed or installed less than 100 feet from any existing dwelling unit.

*d.* Delete section 3404.2.8.12 and insert in lieu thereof the following:

3404.2.8.12 Liquid removal. Means shall be provided to recover liquid from the vault. Where a pump is used to meet this requirement, the pump shall not be permanently installed in the vault. Electric-powered portable pumps shall be suitable for use in Class I, Division 1 locations, as defined in NFPA 70, National Electrical Code, 2005 edition.

*e.* Delete section 3404.2.8.17 and insert in lieu thereof the following:

3404.2.8.17 Classified area. The interior of a vault containing a tank that stores a Class I liquid shall be designated a Class I, Division 1 location, as defined in NFPA 70, National Electrical Code, 2005 edition.

*f.* Delete section 3404.2.9.1.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.1 Required foam fire protection systems. Foam fire protection shall be provided at any refinery and for aboveground tanks, other than pressure tanks operating at or above 1 pound per square inch gauge (psig) (6.89 kPa) when such tank, or group of tanks spaced less than 50 feet (15,240 mm) apart measured shell to shell, has a liquid surface area in excess of 1,500 square feet (139 m<sup>2</sup>), and is in accordance with any of the following:

*g.* Delete section 3404.2.9.1.2.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.2.1 Where foam fire protection is required, it shall be provided in accordance with NFPA 11, 2005 edition, and shall be of a type or types and amount appropriate to suppress fires involving types and amounts of flammable and combustible liquids found on the premises. Where the flammable or combustible liquid contains more than 10 percent alcohol, the foam shall be alcohol-resistant. Fire-fighting foam shall be stored separately from any area in which flammable and combustible liquids are stored and in an area or areas that will be readily accessible to fire fighters responding to a fire at the facility.

*h.* Amend the exception to section 3404.2.9.1.2.1 by adding the following new numbered paragraphs:

6. The premises is not a refinery.

7. The premises does not include bulk storage of flammable or combustible liquids.

8. The premises does not contain total storage capacity to store one million gallons or more of flammable or combustible liquids.

*i.* Delete section 3404.3.1.1 and insert in lieu thereof the following:

3404.3.1.1 Approved containers. Only approved containers and portable tanks shall be used. No flammable or combustible liquid shall be placed into, stored in, or carried in any container other than one which is metal or hard plastic. No flammable or combustible liquid shall be placed into, stored in, or carried in any temporary or disposable container.

**221.3(2)** Amend NFPA 30, section 4.3.2.3.3, by adding the following new paragraphs:

(10) Each secondary containment tank shall have top-only openings and shall be either a steel double-walled tank or a steel inner tank with an outer containment tank wall constructed in accordance with nationally accepted industry standards, such as those codified by the American Petroleum Institute,

the Steel Tank Institute and the American Concrete Institute. Each tank shall be listed by an independent testing laboratory.

(11) Each fill opening in a secondary containment tank shall be provided with a spill container that will hold at least 5 gallons.

(12) For any secondary containment tank, interstitial tank space shall be monitored by an approved, continuous, automatic detection system that is capable of detecting liquids, including water. An automatic detection system may be either electronically or mechanically operated.

**221.3(3) Plans and plan review fees.**

*a.* The owner of any premises on which flammable or combustible liquids are or will be stored or used is required to submit construction plans to the fire marshal division, prior to commencing initial construction of the facility or prior to commencing any construction at an existing facility which includes the addition or replacement of an aboveground flammable or combustible liquid storage tank. The construction plans shall be sealed by a licensed professional engineer if the facility at which the construction will occur is or will be a refinery or if preparation of the plans by a licensed professional engineer is required by another provision of Iowa law.

Construction for which plans are required to be submitted for review shall not commence until approval of the plan has been received from the fire marshal.

EXCEPTION 1: Submission of construction plans is not required if the total flammable and combustible liquid storage capacity on the premises is or will be 1,100 gallons or less.

EXCEPTION 2: If an SPCC plan has been prepared pursuant to 40 CFR 112 for a facility other than a refinery, a copy of the SPCC plan may be submitted to the fire marshal in lieu of submission of separate construction plans, provided that the SPCC plan includes all of the elements required to be included in construction plans for the specific facility in this subrule. If the fire marshal agrees, copies of portions of the SPCC plan may be submitted in lieu of a copy of the complete plan provided that all elements of construction plans which are required for the specific facility by this subrule are included. If an SPCC plan or portions thereof are submitted to the fire marshal, the person making the submission shall provide any additional information required by the fire marshal to evaluate compliance with the provisions of this chapter and Iowa Code chapter 101. The copy of the SPCC plan or portions thereof submitted to the fire marshal shall clearly identify the licensed professional engineer who prepared the plan or shall be accompanied by a letter making this identification.

*b.* Minimum requirements for plans submitted for review include the following:

(1) Drawings shall show the name of the person, firm or corporation proposing the installation, the location, and the adjacent streets or highways.

(2) In the case of refineries or bulk plants, the drawings shall show, in addition to any applicable features required under subparagraphs (4) and (5), the plot of ground to be utilized and its immediate surroundings on all sides; and a complete layout of buildings, tanks, loading and unloading docks, and heating devices, if any.

(3) In the case of service stations, the drawings shall show, in addition to any applicable features required under subparagraphs (4), (5), and (6), the plot of ground to be utilized; the complete layout of buildings, drives, dispensing equipment, and greasing or washing stalls; and the type and location of any heating device.

(4) In the case of aboveground storage, the drawings shall show the location and capacity of each tank; dimensions of each tank whose capacity exceeds 50,000 gallons; the class of liquid to be stored in each tank; the type of tank supports; the clearances; the type of venting and pressure relief relied upon and the combined capacity of all venting and pressure relief valves on each tank; and the tank control valves and the location of pumps and other facilities by which liquid is filled into or withdrawn from the tanks.

(5) In the case of underground storage, the drawings shall show the location and capacity of each tank; the class of liquids to be stored; and the location of fill, gauge, vent pipes, openings and clearances.

(6) In the case of an installation for storage, handling or use of flammable or combustible liquids within buildings or enclosures at any establishment or occupancy covered in this chapter, the drawing shall be in detail sufficient to show whether applicable requirements are to be met.

*c.* Fees for plan reviews shall apply as follows:

(1) \$100 plus \$25 for each new or replacement tank included in the plan, for any site or facility at which flammable or combustible liquids are or will be stored, except for new construction of a refinery.

(2) \$500 for review of the initial construction plans of a refinery if the projected construction costs are \$100,000,000 or less and \$1,000 for the initial construction plans for a refinery if the projected construction costs are greater than \$100,000,000.

(3) The owner shall submit payment of plan review fees in the form of a check, money order, or warrant payable to Treasurer, State of Iowa.

*d.* Plan review fees shall be refunded to the submitter if the plan review has not been completed and the submitter has not been notified of approval or disapproval of the plans within 60 days of receipt of the complete plans by the fire marshal division.

**221.3(4) Inspections.**

*a.* Any facility at which flammable or combustible liquids are stored is subject to inspection by any fire code official during the regular business hours of the facility. If the facility does not operate under regular business hours, a fire official shall have access to the facility between 8 a.m. and 4 p.m. on any day which is a business day for the state of Iowa, within four hours of notifying the owner of intent to inspect the facility.

*b.* Any inspection of a facility pursuant to this subrule conducted by an employee of the fire marshal division of the department of public safety shall result in an inspection fee of \$100 plus \$25 for each aboveground flammable or combustible liquid storage tank, except that there shall be no fee for an initial inspection or the first reinspection after an initial inspection that is conducted pursuant to the receipt of a complaint alleging that the facility is in violation of any provision of this chapter, 661—Chapter 224 or Iowa Code chapter 101.

*c.* Inspections may be initiated by the inspecting official at random or on any other basis; may be conducted at the request of the owner, operator, or manager of a facility; or may be conducted to investigate allegations made in a complaint. Such a complaint shall be in writing and shall specify the location and nature of the alleged violations. The complainant may or may not be identified. Complainants who identify themselves may request to be notified of the outcome of the inspection conducted in response to the complaint.

**661—221.4(101) Motor fuel dispensing facilities and repair garages.** The International Fire Code, 2006 edition, published by the ICC, Chapter 22 and references contained therein, and NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2003 edition and references contained therein, are adopted by reference as the rules for motor fuel dispensing facilities and repair garages. If any provision of the International Fire Code adopted herein is in conflict with any provision of NFPA 30A, the International Fire Code provision shall apply. The International Fire Code, 2006 edition, Chapter 22, is adopted with the following amendments:

**221.4(1)** Amend Table 2206.2.3 so that:

Each tank with a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems and storing a Class I liquid, or with a capacity of not more than 12,000 gallons and storing a Class II or Class III liquid, that is located at a commercial, industrial, governmental, or manufacturing establishment, and that is intended for fueling vehicles used in connection with the establishment, is required to be located at least:

(a) 40 feet away from the nearest important building on the same property;

EXCEPTION: Tanks may be located closer than 40 feet to a building of noncombustible construction.

(b) 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

EXCEPTION: No minimum separation shall be required for any tank that complies with NFPA 30A, section 4.3.2.6.

(c) 100 feet away from any residence or place of assembly.

**221.4(2)** Add the following new sections:

2206.7.1.1 Dispensing of blended biofuels.

2206.7.1.1.1 Definitions.

“*B-blend*” means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including no more than 20 percent biodiesel, as defined in Iowa Code section 214A.1.

“*E-10*” means a blend of petroleum and ethanol including no more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*E-blend*” means a blend of petroleum and ethanol including more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*Existing E-blend dispenser*” means a dispenser installed on or before October 24, 2010, for use in dispensing E-blend.

“*Listed*” means listed or approved by an independent testing laboratory for a specific use. A product shall be considered to be listed if it is of a model which has been listed for the use to which it is being put, whether it was manufactured prior to or after the date on which the listing became effective.

2206.7.1.1.2 E-blend may be dispensed only if (1) or (2) applies:

(1) The dispenser is listed by an independent testing laboratory for use with E-blend or E-85.

(2) The dispenser is an existing E-blend dispenser and either (a) or (b) applies:

(a) The dispenser is listed by an independent testing laboratory as compatible with E-10 gasoline, and the retail dealer visually inspects the dispenser and the dispenser sump daily for leaks and equipment failure. The dealer shall maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(b) The dispenser’s manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with E-85 gasoline, and the retail dealer has installed an under-dispenser containment system with electronic monitoring.

NOTE: Option (2) will not be available after August 25, 2014. On or after August 26, 2014, E-blend will be allowed to be dispensed only from dispensers listed by independent testing laboratories for use with E-blend or E-85.

2206.7.1.1.3 B-blend may be dispensed only if (1) and either (2), (3), or (4) apply:

(1) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(2) The retail dealer shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(3) The dispenser’s manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and the retail dealer has installed an under-dispenser containment system with electronic monitoring.

(4) Information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

NOTE: If option (2) or (4) is used, under-dispenser containment shall be provided if otherwise required by the rules in this chapter, rules of the department of natural resources, or any other applicable provision of law.

**221.4(3)** Add the following new section:

2206.7.10 Under dispenser containment (UDC). When installing a new motor fuel dispenser or replacing a motor fuel dispenser, UDC shall be installed whenever any of the following occurs:

(1) UDC is required by a rule adopted by the environmental protection commission.

NOTE: See 567—subrule 135.3(9), paragraph “h.”

(2) A motor fuel dispenser is installed at a location where there previously was no dispenser; or

(3) An existing motor fuel dispenser is removed and replaced with another dispenser. UDC is not required when only the emergency shutoff, shear valves or check valves are replaced.

UDC shall:

- Be intact and liquid tight on its sides and bottom and at any penetrations;
- Be compatible with the substance conveyed by the piping; and
- Allow for visual inspection and monitoring and access to the components in the containment system.

EXCEPTION: UDC shall not be required for a dispenser which sits directly upon a solid concrete apron.

**221.4(4)** Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code or NFPA 30A as adopted by reference herein, aboveground petroleum storage tanks may be used to store flammable and combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

*a.* The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the fire marshal and has been approved for storage of flammable and combustible liquids in compliance with this subrule.

*b.* The facility has suffered damage which has rendered the storage tanks normally used by the facility for flammable and combustible liquids inoperable. Storage of flammable and combustible liquids in compliance with this subrule shall continue only for as long as the normal storage tanks are inoperable and in no event for more than 90 days.

EXCEPTION: In extraordinary circumstances, storage of flammable and combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the fire marshal for such storage.

*c.* The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable and combustible liquids in compliance with this subrule is occurring.

*d.* Any aboveground petroleum storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable and combustible liquids.

*e.* Any aboveground petroleum storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

EXCEPTION: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the fire marshal for its use. In reviewing such a request, the fire marshal shall consider, but is not limited to considering, the following factors:

(1) Volume of throughput of the facility.

(2) Ability to meet setback requirements appropriate to the size of the tanks used.

*f.* All electrical service proximate to the storage area shall comply with applicable provisions of NFPA 70, National Electrical Code, 2005 edition. An emergency shutoff control or electrical disconnect shall be installed no less than 20 feet nor more than 100 feet from any fuel-dispensing device at the facility. The control shall be clearly marked "Emergency Shutoff."

*g.* A 20-pound fire extinguisher with a minimum B:C rating of 40 shall be located no more than 50 feet from the location of any storage tank being used in compliance with this subrule.

*h.* Precautions shall be taken to prevent the ignition of flammable or combustible liquids, including the conspicuous posting of warning signs saying "NO SMOKING" and "NO OPEN FLAME."

*i.* Aboveground petroleum storage tanks used pursuant to this subrule shall be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing shall be allowed at the facility.

*j.* Any aboveground petroleum storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

[ARC 7977B, IAB 7/29/09, effective 7/2/09; ARC 8114B, IAB 9/9/09, effective 9/1/09; ARC 9283B, IAB 12/15/10, effective 12/1/10]

**661—221.5(101) Aircraft fueling.** The International Fire Code, 2006 edition, published by the ICC, sections 1106 through 1106.21.1 and references contained therein, and NFPA 407, Standard for Aircraft Fuel Servicing, 2007 edition and references contained therein, are adopted by reference as the rules for

aircraft fueling facilities. If any provision of the IFC adopted herein conflicts with any provision of NFPA 407, 2007 edition, the IFC provision shall apply.

**661—221.6(101) Helicopter fueling.** The International Fire Code, 2006 edition, published by the ICC, sections 1107 through 1107.8 and references contained therein, is adopted by reference as the rules for helicopter fueling facilities.

**661—221.7(101) Fuel-fired appliances.** The International Fire Code, 2006 edition, published by the ICC, sections 603 through 603.9 and references contained therein, is adopted by reference as the rules for fuel-fired appliances, except for LP-gas fired appliances, which are subject to the provisions of 661—Chapter 226.

**661—221.8(101) Stationary combustion engines and gas turbines.** The International Fire Code, 2006 edition, Chapter 6 and references contained therein, and NFPA 37, “Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines,” 2006 edition, are adopted by reference as the rules governing the installation and use of stationary combustion engines and gas turbines. If any provision of the IFC, 2006 edition, Chapter 6, adopted herein is in conflict with any provision of NFPA 37, 2006 edition, the provision of the IFC shall apply.

These rules are intended to implement Iowa Code chapter 101.

[Filed 11/1/07, Notice 9/26/07—published 11/21/07, effective 1/1/08]

[Filed emergency 6/25/08—published 7/16/08, effective 7/1/08]

[Filed 7/21/08, Notice 3/26/08—published 8/13/08, effective 10/1/08]

[Filed Emergency After Notice ARC 7977B (Notice ARC 7772B, IAB 5/20/09), IAB 7/29/09,  
effective 7/2/09]

[Filed Emergency ARC 8114B, IAB 9/9/09, effective 9/1/09]

[Filed Emergency ARC 9283B, IAB 12/15/10, effective 12/1/10]