

## SCHOOL BUDGET REVIEW COMMITTEE[289]

[Prior to 12/14/88, see School Budget Review[740]]

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CHAPTER 1  
ORGANIZATION AND ADMINISTRATIVE PROCEDURES

[Prior to 10/17/90, see School Budget Review, 289—1.2(442)]

**289—1.1(257) School budget review committee.** The school budget review committee (SBRC) is established to review and make recommendations on any rules, regulations, directives, or forms relating to budgeting and accounting in school districts and area education agencies (AEA); to confer with local school districts and make recommendations on any budgeting or accounting matters; and to grant supplemental aid or to grant a modified allowable growth in the budget year for any school district or AEA that has unusual circumstances that create a need for additional funds for operations or that must abate an environmental hazard due to a state or federal regulation. The SBRC may grant use of the unexpended general fund for facilities under certain circumstances specified in the Iowa Code. The SBRC has the authority to direct the director of the department of education or the director of the department of management to make studies and investigations of school costs in any school district.

**1.1(1) Membership.** The SBRC shall be composed of the following six members:

*a.* The director of the department of education who shall serve as chairperson and conduct all meetings unless another member of the committee is asked by the director of the department of education to assume this role. The director of the department of education is a nonvoting member of the committee.

*b.* The director of the department of management who shall serve as secretary unless another member of the committee or department of education staff or department of management staff is asked by the director of the department of management to assume this role. The designated secretary shall not be a voting member, unless the designee is a regular member of the committee.

*c.* Four public members who are knowledgeable in the areas of school finance or public finance issues shall be appointed by the governor to represent the public. All committee members shall perform their assigned duties until a replacement has been appointed.

*d.* The department of education shall employ a staff person to assist the school budget review committee.

**1.1(2) Qualifications of public members.** The four public members shall have general knowledge in the areas of Iowa school finance or public finance. At least one of the public members shall possess a master's or doctoral degree in which areas of school finance, economics or statistics are an integral component or shall have equivalent experience in an executive administrative or senior research position in the education or public administration field.

**1.1(3) Terms of office.** The public members appointed by the governor shall serve staggered three-year terms beginning and ending as provided in Iowa Code section 69.19. Members appointed by the governor are subject to senate confirmation as provided by Iowa Code section 2.32.

**1.1(4) Compensation.** The committee members representing the public are entitled to receive their necessary expenses while engaged in official duties. In addition they shall be paid a per diem at the rate specified in Iowa Code section 7E.6. Per diem and expense payments shall be made from appropriations to the department of education.

[ARC 9320B, IAB 1/12/11, effective 2/16/11]

**289—1.2(257) Mailing address.** The mailing address for all operations of the SBRC is Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146.

[ARC 9320B, IAB 1/12/11, effective 2/16/11]

**289—1.3(257) Information or submissions.** Information inquiries or requests for hearings, declaratory rulings, for participation in the rule-making procedures of the SBRC, and for scheduling presentations to the committee should be addressed to the director of the department of education as chairperson of the SBRC.

**289—1.4(257) Hearings.**

**1.4(1) Number.** The committee shall meet and hold hearings each year and shall continue in session until it has reviewed budgets of school districts and completed the other duties as found in Iowa Code

sections 257.30 through 257.32 and 260C.18B. A minimum of three sessions to hold hearings shall be scheduled each fiscal year and shall be held during the months of October, December, and March. Revisions to these regularly scheduled sessions may be made if there are scheduling conflicts, if the SBRC determines that additional sessions are necessary, or if there are not sufficient hearing requests to hold a session.

**1.4(2) Notification to legislators and others.**

*a.* Legislators shall be notified of hearings of the SBRC for specific school districts, area education agencies, or community colleges in their constituencies. Such notification may be written, oral, or electronic.

*b.* Public notice of all hearings scheduled by the SBRC shall be posted by the department of education on the department's Web site and on the public notice bulletin board on the first floor of the Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa.

**1.4(3) Hearing procedures.** The chairperson shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

**1.4(4) Quorum.**

*a.* Three voting members present shall constitute a quorum of the SBRC, and a quorum must be present to conduct a hearing at which official action is taken. Members may be present by electronic media.

*b.* If only three members are present, three favorable votes are necessary to pass a motion.  
[ARC 9320B, IAB 1/12/11, effective 2/16/11; ARC 4782C, IAB 11/20/19, effective 12/25/19]

These rules are intended to implement Iowa Code sections 257.30 and 257.31.

[Filed 3/17/78, Notice 9/21/77—published 4/5/78, effective 5/10/78]

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[Filed ARC 4782C (Notice ARC 4604C, IAB 8/14/19), IAB 11/20/19, effective 12/25/19]

CHAPTER 2  
PETITIONS FOR RULE MAKING

[Prior to 10/17/90, see School Budget Review, 289—1.4(442)]

The school budget review committee hereby adopts the petitions for rule making segment of the Uniform Administrative Rules which is printed in the first Volume of the Iowa Administrative Code with the following amendments:

**289—2.1(17A) Petition for rule making.** In lieu of the words “(designated office)”, insert “the School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

“SCHOOL BUDGET REVIEW COMMITTEE”

[Editorial change: IAC Supplement 10/6/10]

**289—2.3(17A) Inquiries.** In lieu of the words “(designate official by full title and address)”, insert, “Chairperson, School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”.

[Editorial change: IAC Supplement 10/6/10]

These rules are intended to implement Iowa Code section 17A.7.

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[Filed emergency 9/28/90—published 10/17/90, effective 9/28/90]

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[Editorial change: IAC Supplement 10/6/10]



CHAPTER 3  
DECLARATORY RULINGS

[Prior to 10/17/90, see School Budget Review, 289—1.5(442)]

The school budget review committee hereby adopts the declaratory rulings segment of the Uniform Administrative Rules which is printed in the first Volume of the Iowa Administrative Code with the following amendments:

**289—3.1(17A) Petition for declaratory ruling.** In lieu of the words “(designate office)”, insert “the School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”. In lieu of the words “(AGENCY NAME)”, the heading on the petition should read:

“SCHOOL BUDGET REVIEW COMMITTEE”

[Editorial change: IAC Supplement 10/6/10]

**289—3.3(17A) Inquiries.** In lieu of the words “(designate official by full title and address)”, insert “Chairperson, School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”.

[Editorial change: IAC Supplement 10/6/10]

These rules are intended to implement Iowa Code section 17A.9.

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[Editorial change: IAC Supplement 10/6/10]





CHAPTER 4  
AGENCY PROCEDURE FOR RULE MAKING

[Prior to 10/17/90, see School Budget Review, 289—1.6(442)]

The school budget review committee hereby adopts the agency procedure for rule making segment of the Uniform Administrative Rules which is printed in the front of Volume I of the Iowa Administrative Code with the following amendments:

**289—4.3(17A) Public rule-making docket.**

**4.3(2) *Anticipated rule making.*** In lieu of the words “(commission, board, council, director)”, insert “school budget review committee”.

**289—4.4(17A) Notice of proposed rule making.**

**4.4(3) *Notices mailed.*** In lieu of the words “(specific time period)”, insert “three years”.

**289—4.5(17A) Public participation.**

**4.5(1) *Written comments.*** In lieu of the words “(identify office and address)”, insert “the School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”.

[Editorial change: IAC Supplement 10/6/10]

**289—4.6(17A) Regulatory analysis.**

**4.6(3) *Mailing list.*** In lieu of the words “(designate office)” insert “the School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”.

[Editorial change: IAC Supplement 10/6/10; ARC 4782C, IAB 11/20/19, effective 12/25/19]

**289—4.10(17A) Exemptions from public rule-making procedures.** Delete subrule 4.10(2) entitled “Categories exempt”.

**289—4.11(17A) Concise statement of reasons.**

**4.11(1) *General.*** In lieu of the words “(specify the office and address)”, insert “the School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”.

[Editorial change: IAC Supplement 10/6/10]

**289—4.13(17A) Agency rule-making record.**

**4.13(2) *Contents.***

*c.* In lieu of the words “(agency head)”, insert “chairperson”.

These rules are intended to implement Iowa Code section 17A.4.

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[Editorial change: IAC Supplement 10/6/10]

[Filed ARC 4782C (Notice ARC 4604C, IAB 8/14/19), IAB 11/20/19, effective 12/25/19]



CHAPTER 5  
PUBLIC RECORDS AND  
FAIR INFORMATION PRACTICES

[Prior to 10/17/90, see School Budget Review, 289—1.7(442, 22)]

The school budget review committee hereby adopts, with the following exceptions and amendments, the Uniform Administrative Rules relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

**289—5.1(17A) Definitions.** As used in this chapter:

“*Agency.*” In lieu of the words “(official or body issuing these rules)”, insert “school budget review committee”.

**289—5.3(17A) Requests for access to records.**

**5.3(1) Location of record.** In lieu of the words “(insert agency head)”, insert “chairperson of the committee”. In lieu of the words “(insert agency name and address)”, insert “School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146”.

**5.3(2) Office hours.** In lieu of the words “(insert customary hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays”.

**5.3(7) Fees.**

*c. Supervisory fee.* In lieu of the words “(specify time period)”, insert “one-half hour”. In lieu of the words “An agency wishing to deal with search fees authorized by law should do so here”, insert “The committee will give advance notice to the requester if it will be necessary to use an employee with a higher hourly wage in order to find or supervise the particular records in question, and shall indicate the amount of that higher hourly wage to the requester.”

[Editorial change: IAC Supplement 10/6/10]

**289—5.6(17A) Procedure by which additions, dissents, or objections may be entered into certain records.** In lieu of the words “(designate office)”, insert “the office of the chairperson of this committee”.

**289—5.9(17A) Disclosures without the consent of the subject.** Open records are routinely disclosed without the consent of the subject.

**289—5.10(17A) Routine use.**

**5.10(1)** “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose for which the record was collected. It includes disclosures required to be made by statute other than public records law, Iowa Code chapter 22.

**5.10(2)** To the extent allowed by law, the following uses are considered routine uses of all committee records:

*a.* Disclosure to those members of the committee who have a need for the record in the performance of their duties.

*b.* Information released to staff of federal and state entities for audit purposes or to determine whether the agency is operating a program lawfully.

**289—5.11(17A) Availability of records.** Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**289—5.12(17A) Rule-making records.** These records are routinely available to the public and may contain information about individuals making written or oral comments on proposed rules or proposing rules or rule amendments. This information is collected pursuant to Iowa Code sections 17A.3, 17A.4 and 17A.7. These records are stored on paper and not in an automated data processing system.

**289—5.13(17A) Applicability.** This chapter does not require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

These rules are intended to implement Iowa Code section 17A.22.

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[Filed 12/21/90, Notice 10/17/90—published 1/9/91, effective 2/13/91]

[Editorial change: IAC Supplement 10/6/10]

CHAPTER 6  
DUTIES AND OPERATIONAL PROCEDURES

**289—6.1(257) Definitions.** For the purposes of this chapter, the following definitions shall be used.

“*Area education agency*” or “*AEA*” means a regional service agency organized under Iowa Code chapter 273 that provides school improvement services for students, families, teachers, administrators, and the community.

“*Authorized budget*” means the total dollars available as the expenditure limit for a school district for a specific fiscal year. This total is the combined district cost plus miscellaneous income actually received during the fiscal year, plus the unspent balance of the previous year.

“*Base year*” means the school year ending during the calendar year in which a budget is certified.

“*Basis of accounting*” means the accrual or modified accrual accounting basis under generally accepted accounting principles (GAAP) as defined by the Governmental Accounting Standards Board (GASB).

“*Basis of budgeting*” means the accrual or modified accrual budgeting basis under GAAP as defined by GASB.

“*Budget year*” means the school year beginning during the calendar year in which a budget is certified.

“*Certified budget*” means the document which has been published and certified as provided for in Iowa Code chapter 24 and contains the amount proposed to be expended during the budget year.

“*Class action*” means a situation that applies to multiple districts with the same or substantially similar needs and the SBRC has determined that the districts can be considered jointly in a single hearing.

“*Committee*” means the school budget review committee (SBRC).

“*Community college*” means a publicly supported school organized under Iowa Code chapter 260C.

“*Expenditures*” means the total amounts paid from the general fund of a school corporation.

“*Miscellaneous income*” means the receipts deposited to the general fund of the school district but not including any of the following:

1. Foundation aid.
2. Revenue obtained from the foundation property tax as defined in Iowa Code section 257.3(1).
3. Cash reserve levy.
4. Revenue obtained from the additional property tax under Iowa Code section 257.4.

“*Modified supplemental amount*” means an amount expressed in dollars which is added to the district’s authorized budget.

“*School corporation*” means a school district, area education agency, or community college.

“*School district*” means a school corporation organized under Iowa Code chapter 274.

“*Unexpended fund balance*” means the school district’s or AEA’s fund balance in the general fund reported by the school district or AEA on the GAAP basis of accounting on its certified annual report.

“*Unspent balance*” means the amount of the authorized budget for the general fund less the amount expended during the budget year on the GAAP basis of budgeting as reported by the school district on its certified annual report.

[ARC 0088C, IAB 4/18/12, effective 5/23/12; ARC 4782C, IAB 11/20/19, effective 12/25/19]

**289—6.2(257) Hearings.** Rescinded IAB 1/12/11, effective 2/16/11.

**289—6.3(257) Hearing procedures.**

**6.3(1) Request for hearing.**

*a.* The board of a school corporation requesting a hearing before the SBRC is required, after taking official board action on the subject of the hearing, to submit an electronic request to the committee stating the reason for the request for a hearing.

*b.* A request must be received by the committee at least one month prior to the date of the scheduled hearing.

c. School corporations with similar requests may appear and present their requests jointly at the discretion of the SBRC chairperson.

**6.3(2) Notification.**

a. An electronic confirmation of each request shall be provided to the school corporation upon receipt of the request for hearing.

b. The SBRC may require board members or employees of any school corporation to appear. School corporations required to have a board member or employee appear shall be notified no later than three weeks prior to the hearing.

c. School corporations scheduled for hearings shall be notified no later than one week prior to the hearing.

d. A school corporation desiring to withdraw its request to appear before the SBRC shall immediately inform the committee and the legislators within whose constituency the school corporation is located. A school corporation required to appear may not withdraw without the approval of the SBRC.

**6.3(3) Material for the hearing.**

a. Any information requested by the committee must be provided within the timelines requested by the committee in order for the school corporation to be included on the schedule for a hearing. One full set of materials provided electronically in a format that can be cut and pasted into official documentation shall be submitted at least four weeks prior to the scheduled hearing. The SBRC chairperson may set an earlier due date for information if necessary for adequate review based on the quantity or complexity of hearings. If a school corporation's exhibits for a hearing the school corporation has requested are not received timely, the school corporation's hearing may be postponed to the next following regularly scheduled session. Where applicable, the committee will provide forms or checklists to school corporations to obtain uniform and comparable data for determining committee decisions.

b. School corporations shall include in their materials for the hearing a copy of the board minutes that include the official action taken by the applicable school corporation board on the subject of the hearing and authorizing the school corporation's administrative officials to request modified supplemental amount or use of the unexpended fund balance.

c. It shall be the responsibility of the administrative officials and board members to present information and materials in support of their school corporation's request to the committee in a timely manner.

d. The SBRC may require staff of the department of education or department of management to appear or provide information for a hearing or for a study. The SBRC may require staff of any school corporation to provide information for a hearing related to another school corporation or for a study.

e. In order for the SBRC to have the information necessary to evaluate balances and budgets as required by the Iowa Code or to evaluate materials submitted by school districts or AEAs, all school districts and AEAs shall file financial and enrollment reports, including the certified annual report, in the manner, by the procedures, and by the dates prescribed by the department of education or department of management.

f. If the requirements in paragraph 6.3(3)"e" are not met, the SBRC may implement the procedures described in subrule 6.3(5).

g. Applications for any supplemental aid funding shall be filed by the due date established in the Iowa Code, an administrative rule, or otherwise by the department of education or department of management.

h. Applications for modified supplemental amount for increased certified enrollment over the prior year's enrollment, applications for modified supplemental amount to pay tuition costs for open-enrolled-out students who were not enrolled in the district on the certified enrollment date in the prior year, and applications for modified supplemental amount for excess costs of instructional programs for limited English proficient students must be received no later than December 1 of the budget year.

i. Applications for modified supplemental amount for adopted program plans for at-risk students, secondary students who attend alternative programs and alternative schools, and returning dropouts and dropout prevention shall be filed by January 15 of the base year.

*j.* Requests to charge administrative costs to the special education program for the subsequent fiscal year must be received no later than February 1 of the base year.

*k.* Applications described in paragraphs 6.3(3)“g” and “i” that are not timely filed will not be considered for supplemental aid or for modified supplemental amount. Applications described in paragraphs 6.3(3)“h” and “j” that are not timely filed may be considered at the discretion of the SBRC.

**6.3(4) *Permission to speak during the hearing.*** Any person wishing to appear before the committee, other than the board member or school corporation employee representing the school corporation, shall submit a request in writing prior to the hearing date. Permission may be granted to a request made at the hearing upon a majority vote of the committee members present.

**6.3(5) *Failure to appear or to provide information.*** If any school corporation fails to appear as required by the committee or fails to provide any information requested by the SBRC, including the reports described in paragraph 6.3(3)“e,” the SBRC may direct the director of the department of management to withhold state foundation aid until the school corporation complies with the SBRC’s request. When the school corporation satisfactorily complies with the SBRC request, the withheld state foundation aid will be released and paid to the school corporation with the next regularly scheduled payment of foundation aid.

**6.3(6) *Decisions by the committee.***

*a.* A decision to table, deny, modify or grant the request of a school corporation shall be made no later than the end of the day of the hearing.

*b.* The school corporation shall receive electronic notification when a summary of the final action taken by the committee is posted on the SBRC Web site.

*c.* The committee shall consider the intent of Iowa Code chapter 257 in making its decisions. The intent includes the following:

- (1) Equalizing educational opportunities,
- (2) Providing good education to all Iowa children,
- (3) Providing property tax relief,
- (4) Decreasing the percentage of school costs paid by property tax, and
- (5) Providing reasonable control of school costs.

*d.* In addition to the requirements in Iowa Code section 257.31, the committee shall also consider in making its decisions the following:

- (1) The amount of unexpended fund balance available in all funds.
- (2) The amount of unspent balance in the general fund.

*e.* In addition to the requirements in Iowa Code section 257.31, the committee may consider the following if materials are requested or provided by the department or school corporation:

- (1) Local school district tax rates.
- (2) Local taxpayer support for the request.
- (3) Local effort to obtain alternative funding where available and applicable.
- (4) Documented actual costs of the program or project that is the subject of the request not otherwise covered by funding for the same program or need.
- (5) Sustainability of the program or need within the district or AEA budget without future requests.
- (6) Number and cost of previous requests for the same need and the number and cost of all previous requests.
- (7) Alternative procedures in the Iowa Code or administrative rules to provide funding for the same program or need.
- (8) Life safety issues other than those covered in Iowa Code section 257.31(6) documented through an independent, authoritative source.
- (9) Unusual or unique nature of the need.
- (10) Any other information the SBRC members consider pertinent to the consideration of the request.

**6.3(7) *Routine action by the committee.*** School corporations do not need to be represented when action under consideration is for such items as cash reserve levies; adopted program plans for at-risk students, secondary students who attend alternative programs and alternative schools, and returning

dropouts and dropout prevention; special education balances or other situations which are considered class actions as determined by the SBRC.

**6.3(8) *Basic policies.*** The SBRC has established the following basic policies that it shall consider in rendering its decisions.

*a.* Modified supplemental amount requests shall be considered only for costs up through the budget year, except where the Iowa Code expressly authorizes modified supplemental amount to be granted for a subsequent year.

*b.* Modified supplemental amount requests shall be considered only for expenditures permitted from the general fund pursuant to the Iowa Code.

*c.* Modified supplemental amount requests may be brought before the committee for unusual, unique or unforeseeable circumstances.

*d.* Modified supplemental amount requests shall be considered only to the extent of the actual, documented costs.

**6.3(9) *Use of the unexpended fund balance.*** If the SBRC approves use of the unexpended fund balance, the school district shall report to the committee as required by the committee an accounting of expenditures on the project until the project is completed. If any portion of the amount granted by the SBRC remains unexpended at the completion of the project, the school district shall notify the SBRC on or before the SBRC's next regularly scheduled meeting. Any portion of the amount granted by the SBRC that remains unexpended at the completion of the project shall be returned to the unexpended fund balance in the general fund.

**6.3(10) *Modified supplemental amount to an AEA.*** If the SBRC approves modified supplemental amount for special education support services, approves an additional amount to be added to district costs for media services or educational services, or approves modified supplemental amount for unusual circumstances, the amount shall be included in the budget of each district in the AEA for the subsequent budget year in the proportion that the appropriate enrollment of each district in the AEA bears to the total enrollment of all districts in the AEA.

[ARC 0088C, IAB 4/18/12, effective 5/23/12; ARC 4782C, IAB 11/20/19, effective 12/25/19]

#### **289—6.4(257) General duties.**

**6.4(1) *Review of rules, regulations, directives and forms.*** The committee may recommend the revision of any rules, regulations, directives, or forms relating to school district budgeting and accounting, confer with local school boards or their representatives and make recommendations relating to any budgeting or accounting matters, and direct the director of the department of education or the director of the department of management to make studies and investigations of school costs in any school district.

**6.4(2) *Hearing decisions.*** The committee shall maintain its decisions for each hearing. Materials provided by the requesting school corporation, materials provided by the department of education or department of management regarding each request, and the decisions of the committee are available for access by the public, including members of the general assembly.

[ARC 0088C, IAB 4/18/12, effective 5/23/12]

#### **289—6.5(257) Budgets.**

**6.5(1) *Generally accepted accounting principles.*** All school districts and AEAs shall budget on the GAAP basis of budgeting as defined by GASB and as implemented in Uniform Financial Accounting for Iowa LEAs and AEAs (UFA). School districts and area education agencies shall use the chart of accounts defined in Uniform Financial Accounting for Iowa LEAs and AEAs (UFA).

**6.5(2) *Accounting and reporting.*** School districts and AEAs shall maintain financial records and prepare financial reports, including the certified annual report, in the manner and by the procedures prescribed by the department of education or department of management in the Uniform Financial Accounting for Iowa LEAs and AEAs (UFA) manual and GAAP. School districts and AEAs shall use the chart of accounts defined in Uniform Financial Accounting for Iowa LEAs and AEAs (UFA).



**6.5(3) Negative unspent balances (exceeding authorized budgets).** If the school district has incurred a negative unspent balance, it shall notify the SBRC no later than October 15 and begin developing its corrective action plan to avoid future negative unspent balances.

*a.* A listing of the unspent balance as well as the unexpended fund balance of each school district for each fiscal year shall be reviewed by the committee. The unspent balance and the unexpended fund balance shall be presented on the GAAP basis.

*b.* The amount of any negative unspent balance shall be automatically subtracted from the authorized budget of a given school district during the subsequent fiscal year.

*c.* The state board of education may be notified of the school districts with negative unspent balances each year. The notification shall include the amount by which the school district exceeded its authorized budget.

*d.* The board president of each school district with a negative unspent balance shall be notified of the amount by which the school district exceeded its authorized budget. The school districts shall inform the SBRC at the SBRC's next regularly scheduled session of the plans that are being implemented to avoid future negative unspent balances.

*e.* The SBRC may require the district to continue to report progress on the district's plans at regular intervals as determined by the committee until the committee is satisfied that the district's financial condition concerns have been resolved.

**6.5(4) Cash reserve levy.**

*a.* Annually the school budget review committee shall review the amount of property tax levied by each school district for the cash reserve authorized in Iowa Code section 298.10.

*b.* If in the committee's judgment, the amount of a district's cash reserve levy is unreasonably high or is in excess of the amount necessary for operations, the committee shall instruct the district to use the unexpended fund balance in lieu of levying property taxes and shall direct the director of the department of management to limit that school district's cash reserve levy to a level that is not excessive as determined by the committee and does not exceed the cash reserve limitation in paragraph 6.5(4) "c."

*c.* The cash reserve levies for the budget year shall not exceed 20 percent of the general fund expenditures for the year previous to the base year minus the general fund unexpended fund balance for the year previous to the base year. The expenditures and the fund balances shall be determined on the GAAP basis. For purposes of this subrule, "unexpended fund balance" shall mean the combined assigned and unassigned fund balances in the general fund.

*d.* A reduction in a district's property tax levy for a budget year for cash reserve shall not affect the school district's authorized budget.

**6.5(5) Supplemental aid and modified allowable growth.** Rescinded IAB 4/18/12, effective 5/23/12. [ARC 0088C, IAB 4/18/12, effective 5/23/12]

**289—6.6(257) Special needs adjustment program.** Rescinded IAB 4/18/12, effective 5/23/12.

**289—6.7(257) Sharing.** The committee may recommend that two or more school districts jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities as specified in Iowa Code section 280.15.

**289—6.8 Transportation assistance aid.** Reserved.

**289—6.9(257) Special education administrative costs.**

**6.9(1)** When a school district presents evidence of unusual circumstances that would justify charging administrative costs to the special education program, the committee may authorize such expenditures.

**6.9(2)** The committee shall use the following criteria in evaluating the evidence presented by the district:

*a.* The school district has a separate facility for special education which has a sufficient student population to warrant a certified special education administrator. In this case, the district, after it has received approval from the SBRC, may bill the prorated cost to other resident districts as well as include the prorated portion related to its own resident students in the special education program expenditures.

*b.* The school district has one or more private facilities located within the district with a sufficient special education student population that is served by the district. In this case, the district, after it has received approval from the SBRC, may include the lower of the prorated actual administrative costs or the prorated approved administrative costs in the billing to other resident districts in proportion to each district's resident students in the program, but shall not include the prorated portion related to its own resident students in the special education program expenditures.

[ARC 0088C, IAB 4/18/12, effective 5/23/12]

**289—6.10(257) Area education agency budget review.** Year-end special education support services assigned and unassigned fund balances exceeding 10 percent of the special education support services expenditures for that fiscal year may be reverted and reduced to 10 percent. The AEA shall report the necessary information for this calculation on its certified annual report to the department. The committee shall review the recommended reversion calculated by the department of education and shall make a recommendation to the department regarding final amounts to be reverted. The components of fund balances shall be determined in compliance with department of education guidance and GAAP.

[ARC 0088C, IAB 4/18/12, effective 5/23/12]

These rules are intended to implement Iowa Code sections 257.30, 257.31, 257.32, 257.40, and 298.10 and chapter 260C.

[Filed 3/17/78, Notice 9/21/77—published 4/5/78, effective 5/10/78]

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CHAPTER 7  
ON-TIME FUNDING FOR INCREASED ENROLLMENT  
Rescinded IAB 1/12/11, effective 2/16/11



CHAPTER 8  
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

**289—8.1(17A,ExecOrd11) Definitions.** For purposes of this chapter:

“*Committee*” means the school budget review committee.

“*Person*” means an individual, school corporation, government or governmental subdivision or agency, nonpublic school, partnership or association, or any legal entity.

“*Waiver or variance*” means action by the director which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.2(17A,ExecOrd11) Scope.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

**289—8.3(17A,ExecOrd11) Applicability.** A waiver from a rule may be granted only if the committee has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. Statutory duties or requirements created by statute may not be waived.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.4(17A,ExecOrd11) Criteria for waiver.** In response to a petition completed pursuant to rule 289—4.6(17A,ExecOrd11), the committee may, in the committee’s sole discretion, issue an order waiving in whole or in part the requirements of a rule if the committee finds, based on clear and convincing evidence, all of the following:

1. The application of the rule to the person at issue would result in an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirement of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested; and
5. The waiver from the requirements of the rule in the specific case would not have a negative impact on the student achievement of any person affected by the waiver.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.5(17A,ExecOrd11) Filing of petition.** All petitions for waiver must be submitted in writing to the School Budget Review Committee, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-0146. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.6(17A,ExecOrd11) Content of petition.** A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person for whom a waiver is being requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver or variance requested, including the precise scope and duration.

4. The relevant facts that the petitioner believes would justify a waiver under each of the five criteria described in rule 289—4.4(17A,ExecOrd11). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the board, the committee and the petitioner relating to the regulated activity, license, or grant affected by the proposed waiver, including a description of each affected item held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, or grant within the last five years.

6. A detailed statement of the impact on student achievement for any person affected by the granting of a waiver.

7. Any information known to the requester regarding the board's or committee's treatment of similar cases.

8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the committee with information relevant to the waiver.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.7(17A,ExecOrd11) Additional information.** Prior to issuing an order granting or denying a waiver, the committee may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the committee may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the committee.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.8(17A,ExecOrd11) Notice.** The committee shall acknowledge a petition upon receipt. The committee shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the committee may give notice to other persons. To accomplish this notice provision, the committee may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the committee attesting that notice has been provided.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.9(17A,ExecOrd11) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (1) to any petition for a waiver filed within a contested case; (2) when provided by rule or order; or (3) when required to do so by statute.

**289—8.10(17A,ExecOrd11) Ruling.** An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and the reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

**8.10(1) Discretion.** The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the committee, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the committee based on the unique, individual circumstances set out in the petition.

**8.10(2) Burden of persuasion.** The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the committee should exercise the committee's discretion to grant a waiver from a rule.

**8.10(3) *Narrowly tailored exception.*** A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

**8.10(4) *Administrative deadlines.*** When the rule from which a waiver is sought establishes administrative deadlines, the committee shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

**8.10(5) *Conditions.*** The committee may place any condition on a waiver that the committee finds desirable to protect the public health, safety, and welfare.

**8.10(6) *Time period of waiver.*** A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the committee, a waiver may be renewed if the committee finds that grounds for a waiver continue to exist.

**8.10(7) *Time for ruling.*** The committee shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the committee shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**8.10(8) *When deemed denied.*** Failure of the committee to grant or deny a petition within the required time period shall be deemed a denial of that petition by the committee. However, the committee shall remain responsible for issuing an order denying a waiver.

**8.10(9) *Service of order.*** Within seven days of its issuance, any order issued under this uniform rule shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.11(17A,ExecOrd11) Public availability.** All orders granting a waiver petition shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying waiver petitions are public records under Iowa Code chapter 22. The committee may accordingly redact confidential information from petitions or orders prior to public inspection.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.12(17A,ExecOrd11) Summary reports.** Semi-annually, the committee shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by those rules, and a general summary of the reasons justifying the committee's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of the report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.13(17A,ExecOrd11) Cancellation.** A waiver issued pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the committee issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.14(17A,ExecOrd11) Violations.** Violation of conditions in the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted. As a result, the recipient of a waiver

under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

**289—8.15(17A,ExecOrd11) Defense.** After the committee issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

**289—8.16(17A,ExecOrd11) Judicial review.** Judicial review of the committee's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

[ARC 9323B, IAB 1/12/11, effective 2/16/11]

These rules are intended to implement Iowa Code section 17A.9A.

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