

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

[Prior to 6/26/91, see Library Department [560] Ch 1]
[Prior to 3/30/94, see Cultural Affairs Department[221], Library Division[224], Chs 1 and 6]

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CHAPTER 1
ORGANIZATION AND OPERATION

[Prior to 6/26/91, see Library Department[560] Ch 1]

[Prior to 3/30/94, see Cultural Affairs Department[221], Library Division[224] Ch 1]

286—1.1(256) Definitions. The definitions used in Iowa Code chapters 17A and 256 will apply for terms used throughout this chapter. In addition, the following definitions will apply:

“*ADA*” means the Americans with Disabilities Act of 1990.

“*Administrator*” means the state librarian, who shall serve as the administrator of the division of libraries of the department of education.

“*Department*” means the department of education.

“*Director*” means the director of the department of education.

“*LSTA*” means the Library Services and Technology Act Grant Program as defined by P.L. 104-208 (1997).

“*State librarian*” means the chief operating officer of the state library.

“*State library*” means the library agency within the division of libraries of the department of education.

286—1.2(256) Mission. Rescinded IAB 12/16/98, effective 1/20/99.

286—1.3(256) Organization and operation.

1.3(1) Location. The state library is located at 1112 East Grand Avenue, Des Moines, Iowa 50319; telephone (515)281-4105; fax (515)281-6191. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excepting legal holidays.

1.3(2) Units. The state library consists of four units: library development (includes the LSTA Grant Program, public library accreditation, library staff certification, Enrich Iowa, continuing education and consulting); information services (includes state documents, the state documents depository program, special collections, the state law library, and technical services); the state data center; and administration.

1.3(3) Commission of libraries. The commission of libraries consists of nine members as defined in Iowa Code section 256.52. The commission shall meet at a time and place specified by the chair. Notice of a meeting and the agenda will be posted at the state library at least 24 hours prior to the meeting and shall be mailed to any interested individual or organization upon request. The operation of commission meetings shall be governed by the following procedures:

a. A quorum shall consist of five members.

b. Any action taken by the commission requires an affirmative vote by at least five members.

c. Persons wishing to appear before the commission shall submit a written request to the state librarian not less than 14 days prior to a meeting. Presentations shall be allowed at the discretion of the chair. Persons wishing to submit written material shall do so at least 14 days prior to a meeting so that commission members have adequate time to receive and evaluate the material.

d. Near the conclusion of each meeting, the chair shall set the date, time and location of the next meeting.

1.3(4) Minutes. Current and archived minutes of commission meetings can be viewed and copied free of charge at the state library. The current and archived minutes are also accessible on the state library’s Web site.

1.3(5) Library services advisory panel. The library services advisory panel consists of no fewer than 11 members as defined in Iowa Code section 256.62. The advisory panel shall meet at a time and place specified by the chair. Notice of a meeting and the agenda will be posted at the state library at least 24 hours prior to the meeting and shall be made available to any interested individual or organization upon request.

[ARC 2622C, IAB 7/20/16, effective 8/24/16]

286—1.4(256) Information delivery.

1.4(1) *Photocopies of library materials for Iowa residents.* The state library will provide library service to any resident of Iowa. To ensure the availability of high-demand library materials for in-house use, the state library may choose not to lend specific library items. In lieu of lending the original item, the library may choose to provide a photocopy of the requested material at a nominal charge of 20 cents per page.

1.4(2) *Photocopies of library materials for nonresidents of Iowa.* To encourage interstate resource sharing, the state library may enter into reciprocal free interlibrary loan photocopy agreements with out-of-state libraries. For other out-of-state businesses and residents, the state library will charge a \$15 handling fee plus 20 cents per page.

This rule shall not preclude the state library from participating in interstate library compacts to support reciprocal resource sharing.

[ARC 2622C, IAB 7/20/16, effective 8/24/16]

286—1.5(256) Access to library's collections.

1.5(1) The state library's materials collections are housed in the Ola Babcock Miller State Office Building, 1112 East Grand Avenue, Des Moines, and in the State Capitol Building.

1.5(2) Primary research and study areas of the library's two locations are accessible to the disabled; however, upper tiers are generally closed to all public access. Staff may authorize access on a case-by-case basis or will retrieve materials requested by library users.

[ARC 2622C, IAB 7/20/16, effective 8/24/16]

286—1.6(256) Collection policy of the library. The purpose of this policy is to define the intended coverage and clientele; establish collection management and selection policies; provide staff with the means to ensure consistency, responsiveness, and wise use of funds in collection building; assist in development of performance measures; establish priorities to guide budget allocations and cataloging and preservation decisions; and document the library's commitment to intellectual freedom.

SEE: Collection Policy. State Library of Iowa, April 2016.

[ARC 2622C, IAB 7/20/16, effective 8/24/16]

286—1.7(256) Disposal of library materials.

1.7(1) *Purpose.* Disposal of library materials shall be undertaken by the state librarian only as a means of strengthening and benefiting the mission of the state library. Disposal shall not be used solely to generate operating funds for the library.

1.7(2) Definitions.

"Deaccession" means permanent removal of materials from the state library's collections.

"Library materials" includes, but is not limited to, books, journals, documents, audio visuals, and software in any format.

"State librarian" means the chief operating officer of the state library.

"State library" means the library agency within the division of libraries of the department of education.

1.7(3) Ethics.

a. Disposal of materials shall be undertaken in an open, public manner conforming to appropriate ethics guidelines.

b. Ownership of deaccessioned materials shall not, under any circumstances, be transferred to or personally benefit any employee, spouse or immediate family member of an employee of the library.

1.7(4) Criteria. Materials may be deaccessioned from the collections of the state library if they are no longer deemed relevant and appropriate to the mission of the state library or if they have deteriorated beyond repair and usefulness.

1.7(5) Procedure.

a. The appropriate unit supervisor shall recommend to the state librarian those materials to be deaccessioned.

b. The state librarian shall approve or disapprove those recommendations from the unit supervisor.

c. The method for disposition of the deaccessioned materials, including sales, donation or destruction, shall be decided by the state librarian.

1.7(6) Limitations.

a. Revenue from the disposition of any books or other library materials shall be credited to the state library fund established by the treasurer of state.

b. Proceeds shall be used solely for the purchase of books and other information resources for the state library.

c. Any balance in the fund on June 30 of the fiscal year shall remain in the state library fund and shall not become part of the state's general fund.

This rule is intended to implement Iowa Code section 256.52(3)“c.”

[ARC 2622C, IAB 7/20/16, effective 8/24/16]

These rules are intended to implement Iowa Code sections 256.50 to 256.56.

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CHAPTER 2
PUBLIC RECORDS AND FAIR
INFORMATION PRACTICES

The library division hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices, which are printed in the first Volume of the Iowa Administrative Code:

286—2.1(17A,22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “library division”.

“Custodian of the record” means the state librarian.

286—2.3(17A,22) Requests for access to records.

2.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “state librarian”. Also in lieu of the words “(insert agency name and address)”, insert “State Librarian, State Library of Iowa, 1112 East Grand Avenue, Des Moines, Iowa 50319”.

2.3(2) Office hours. In lieu of the words “(insert 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., Monday through Friday, excepting legal holidays”.

[ARC 2623C, IAB 7/20/16, effective 8/24/16]

286—2.9(17A,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 286—2.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

286—2.10(17A,22) Routine use.

2.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

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

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

286—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 286—2.7(17A,22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

286—2.12(17A,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 286—2.6(17A,22). However, the agency need not release the following records:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

Other records will be released in accordance with the Iowa Code.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

286—2.13(17A,22) Availability of records.

2.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Records which are exempt from disclosure under Iowa Code section 22.7;

b. Minutes of closed meetings of a government body as provided in Iowa Code section 21.5(4);

c. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law;

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency; (See Iowa Code sections 17A.2 and 17A.3)

d. Individual ranking sheets (except for requester's own) of grant application evaluators; or

e. Any other records made confidential by law.

2.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 286—2.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

286—2.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 286—2.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

2.14(1) Personnel records. These records concern departmental employees and their families, as well as applicants for employment with the department. The system contains material on health, dental, life, and long-term disability insurance; pay and benefit documents; tax withholding; position description questionnaires; affirmative action and equal employment opportunity; disciplinary information; grievances and appeals; performance planning and evaluation; training; deferred compensation; worker's compensation; payroll records; and other materials relating to the employees of the department. Some of the information may be confidential under Iowa Code section 22.7(11) and other legal provisions. These records contain names, social security numbers and other identifying numbers, and are collected in paper form and through the state's automated data processing system.

2.14(2) Reserved.

286—2.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 286—2.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 286—2.13(17A,22). The records listed may contain information about individuals.

2.15(1) Council, board, and commission records. Agendas, minutes, and materials presented to the commission of libraries are available from the state library, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Council and commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

2.15(2) Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

2.15(3) Publications. This office receives a number of books, periodicals, newsletters, government documents, annual reports and brochures related to its mission. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the library division.

2.15(4) Office publications. This office issues a variety of materials including promotional and grants brochures and pamphlets, press releases, project and annual reports, and newsletters which may contain information about individuals, staff or members of boards, councils, or commissions.

2.15(5) Rule-making records. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

2.15(6) Other records. Other records are disclosed to the public unless otherwise exempted from disclosure by law.

286—2.16(17A,22) Data processing systems. None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

286—2.17(17A,22) Applicability. This chapter does not:

2.17(1) Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

2.17(2) Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

2.17(3) Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.

2.17(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

2.17(5) Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11.

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CHAPTER 3
STATEWIDE PROGRAMS AND AGREEMENTS

BACKGROUND

The state library is charged with developing long-range plans for the continued improvement of library services in the state. The most recent long-range plans were entitled “Unified Plan for Library Service in Iowa” and the “LSTA Five-Year Plan.” The major outcomes of these planning efforts include the maintenance of SILO, a voluntary certification program for public librarians, and the continued development of standards for public libraries which includes a voluntary accreditation program.

Based on existing programs and services, the current planning effort addresses the state library’s role in promoting and developing library services in the state, coordinating interlibrary cooperation, and providing Iowans with access to the publications of state government. The state library’s other roles, such as meeting the information needs of the three branches of state government and providing census, patent, legal and medical information, are not addressed in this document.

SEE: Unified Plan for Library Service in Iowa, 1994, and the LSTA Five-Year Plan. State Library of Iowa, 1998.

286—3.1(256) State of Iowa Libraries Online (SILO). Purpose is to provide electronic access to Iowa’s library resources and to electronic information resources. Includes an electronic “card catalog” and associated electronic interlibrary loan system to facilitate the identifying and requesting of library materials among Iowa libraries. Delivers statewide library access to numerous citation and full text databases.

286—3.2(256) Enrich Iowa program.

3.2(1) Purpose. Enrich Iowa, a direct state aid program, provides incentives to improve library services and to reduce inequities among communities in the delivery of library services based on recognized and adopted performance measures. The funding is intended to supplement, not replace, local funding.

3.2(2) Eligibility.

- a.* To participate in the enrich Iowa program, an Iowa public library must:
- (1) Be established by city ordinance or as a county library at least two years previous in accordance with Iowa Code chapter 336.
 - (2) Use the enrich Iowa funds to improve library services.
 - (3) Use program funds to supplement, not supplant, any other funding received by the library.
 - (4) Provide information for auditing purposes, if requested by the state library.
- b.* To remain eligible to participate after July 1, 2001, the library must:
- (1) Meet all of the eligibility and reporting requirements outlined above.
 - (2) Participate in Open Access and Access Plus programs.
 - (3) Meet the standards requirements of Tier 1, 2, or 3.

SEE: Enrich Iowa: Fund Libraries. State Library of Iowa, September 1996.

In Service to Iowa: Public Library Measures of Quality. 3d ed. State Library, 1997.

3.2(3) Reporting procedures. All program participants shall submit the following to the state library:

- a.* A copy of the ordinance establishing the library or documentation of the establishment of the county library by December 15 of the first year of participation.
 - b.* A status report, in the format prescribed by the state library, on local library use of enrich Iowa funds by December 15, 1999.
 - c.* By July 31 following the end of the fiscal year, a final report on the use of enrich Iowa funds in the format prescribed by the state library. The report shall include a listing of program payments received and expenditures made for the fiscal year.
 - d.* An accreditation report, in the prescribed format, as required on the three-year reporting cycle.
- SEE: In Service to Iowa: Public Library Measures of Quality. 3d ed. State Library, 1997.

e. A completed annual survey, in the prescribed format, by the required date.

3.2(4) Informal appeals. Informal appeals shall be made on procedural grounds only. Such grounds include alleged conflicts of interest or procedures not uniformly applied to all public libraries.

3.2(5) Informal appeal hearing. A written request shall be sent to the state librarian. The hearing shall be held within 15 calendar days of the date of the request during regular business hours of the state library. The hearing shall be held before the state librarian or such members of a review board as the state librarian designates. The state librarian shall:

a. Notify the appellant as to the day, hour, and location of the hearing;

b. Inform the appellant of the right to submit any written documents regarding the application;

c. Inform the appellant that a spokesperson must be appointed if the appeal involves more than one person. The state librarian or designee shall direct questions only to the spokesperson during the hearing. Any other discussion or comments shall be reserved for a closed executive session. No indication of decision shall be given at the time of the hearing;

d. Notify the appellant in writing of the decision of the state librarian or designee within five working days of the hearing.

3.2(6) Formal appeal. A formal appeal of the decision of the state librarian or designee shall be made to the commission of libraries.

a. The appellant's argument shall contain:

(1) The facts of the appeal;

(2) An argument in favor of the appeal; and

(3) The remedy sought.

b. Appeals will be allowed on the procedural grounds that staff of the state library acted outside statutory authority, were influenced to act as a result of a conflict of interest, or acted in a biased or unfair manner.

c. The commission shall consider and rule on the appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 calendar days. The decision of the commission is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

This rule is intended to implement 1999 Iowa Acts, Senate File 464, section 7(5).

286—3.3(256) Open Access. Purpose is to provide Iowa citizens with direct access to more library materials and information resources. It is a reciprocal borrowing program that enables users from participating libraries to directly check out materials from other participating libraries.

SEE: Open Access Program Letter of Agreement. State Library of Iowa.

286—3.4(256) Access Plus. Purpose is to provide Iowa citizens with equal access to library resources by encouraging and supporting multitype resource sharing. Access Plus subsidizes participating libraries for each interlibrary loan, from the first loan, made to an eligible Iowa library.

SEE: Access Plus Program Letter of Agreement. State Library of Iowa.

286—3.5(256) Iowa Fax Network. Rescinded IAB 12/16/98, effective 1/20/99.

286—3.6(256) In Service to Iowa: Public Library Measures of Quality. Purpose is to provide performance measures to encourage the ongoing development of quality public library service in the state. By identifying policies, service levels, role selection and output measures, consistency and quality in all aspects of public library service can be achieved.

SEE: In Service to Iowa: Public Library Measures of Quality. 3d ed. State Library of Iowa, 1997.

286—3.7(256) Iowa Certification Program for Public Librarians. Purpose is to improve library service in Iowa by encouraging public librarians to acquire, maintain and develop skills through basic and continuing education, by recognizing librarians who update skills, by improving the public image of librarians, and by providing guidelines for public library boards to use in developing hiring policies.

SEE: Iowa Certification Program for Public Libraries. State Library of Iowa, 1993.

286—3.8(256) Summer library program.

3.8(1) Purpose is to assist public libraries in planning summer reading programs by producing promotional and programming materials, locally adaptable, to help improve library service to youth in Iowa and to improve skills of librarians.

3.8(2) Procedures.

- a. An advisory committee provides advice to the state library regarding this program.
- b. Working with a multistate cooperative, the manual and promotional materials are developed around a theme.
- c. Participating libraries may purchase theme materials (manuals, posters, bookmarks, and related materials).
- d. The program is publicized and promoted through the state library's newsletter and through regional workshops each year.

286—3.9(256) Iowa Depository for Iowa Publications Purpose. The depository library center is established within the state library to serve as the central agency for the collection and distribution of publications issued by state agencies to depository libraries.

3.9(1) Definitions.

"Core depository" shall receive only those publications found on the periodically compiled core list.

"Core list" of Iowa state documents is a selected list intended to meet the basic document needs of libraries.

"Depository library" means a library designated for the deposit of state publications.

"Depository library center" shall be the headquarters for the state documents depository program and shall also be referred to as the "state documents center."

"Full depository" shall be a library receiving everything collected by the depository library center.

"Permanent depository" shall be a library receiving and permanently maintaining two copies of each state publication.

"State agency" means a legislative, executive, or judicial office of the state and all of its respective offices, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.

"State publications" are defined as any multiply produced informational products or materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. State information products specifically include, but are not limited to, public documents appearing as reports, directories, statistical compendiums, bibliographies, lists, state plans, statutes, codes, laws and bills, rules, regulations, transcripts of public hearings, journals, newsletters, bulletins, periodicals, books, pamphlets, brochures, charts, maps, surveys, other printed matter, audiovisual materials, microfilm, microfiche, and all electronic information sources in all electronic formats. State information products do not include correspondence and memoranda intended solely for internal use within the agency or between agencies, materials designated by law as being confidential, materials excluded from this definition by the department through the adoption and enforcement of rules, and materials determined by the depository library center staff to be exempt.

3.9(2) Administration of the depository program.

a. The state documents depository program shall be administered by the depository librarian under the direction of the state librarian.

b. A nine-member advisory council shall be organized to advise the state library regarding this program. The advisory council may be composed of members of state agencies, representatives of depository and nondepository libraries, and the general public. The council shall be appointed by the state librarian with the recommendation of the depository librarian.

c. The state library/depository library center shall serve as the last copy depository for predepository state information products and for those products never deposited with the center since its 1979 inception.

3.9(3) State agency requirements.

a. Upon issuance of a state publication a state agency shall deposit with the depository library center, at no cost to the center, 75 copies of the publication, or a lesser amount if specified by the center.

b. It shall be the responsibility of the issuing state agency to create duplicate copies of publications in limited supply to meet the minimal copy requirements of the depository library center as specified by the center.

3.9(4) Designation of depositories.

a. The state library and the University of Iowa shall be designated as the two permanent depositories for Iowa state publications.

b. The Library of Congress shall receive one copy of each state publication collected.

c. Depository status of additional libraries shall be determined by the state librarian upon written application by a library. A library may be designated as either a full depository or core depository based upon the judgment of the depository library center and the preference of the library.

d. Depository libraries may be selected on the basis of one or more of the following criteria:

(1) Geographic location consistent with a policy of distributing depositories so as to minimize the travel distance of a user.

(2) Demonstrated ability to handle the receipts desired based on size of collection, identified need of the library's clientele, and the availability of space, staff and equipment.

(3) Demonstrated need/value to state of placing depository collection in facility.

(4) Present federal depository status.

Upon approval of the application, a contract with the depository library shall be completed.

3.9(5) Depository library requirements.

a. The permanent depositories shall permanently maintain two copies of each publication. One copy shall be considered archival and will not circulate. The other copy shall be available for loan.

b. All publications received under this program by the full depository and core depository libraries shall be retained for a minimum period of three years unless a lesser retention period is designated for an item or items by the depository library center.

c. The depository agrees to make the documents available for free public use.

d. Materials missing from depository shipments shall be claimed from the depository library center within one month of receipt of the shipment. After that time, requests shall be made directly to the issuing agency or the state printer.

3.9(6) Withdrawal of a library from the program.

a. A full depository library may withdraw from the depository program by sending written notice to the depository library center 60 days prior to such withdrawal.

b. A core depository library may withdraw from this program by sending written notice to the depository library center.

c. A library's depository designation may be withdrawn for failure to conform to the terms of the contract.

d. Upon termination of the contract the depository documents become the property of the depository library center and must be returned to the center or to such other depositories as may be specified by the center.

These rules are intended to implement Iowa Code sections 256.50 to 256.55.

[Filed emergency 3/3/94—published 3/30/94, effective 3/30/94]

[Filed 5/6/94, Notice 3/30/94—published 5/25/94, effective 6/29/94]

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CHAPTER 4
ICN CLASSROOM POLICY
Rescinded **ARC 2626C**, IAB 7/20/16, effective 8/24/16

CHAPTER 5
Reserved

CHAPTER 6
LIBRARY SERVICES AND TECHNOLOGY ACT (LSTA) PROGRAM
[Prior to 3/30/94, see Cultural Affairs Department[221], Library Division[224] Ch 6]

286—6.1(256) Description. The Library Services and Technology Act (LSTA) program is an annual, federally funded program which provides assistance to libraries and library programs in Iowa. The purpose of the Library Services and Technology Act is to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages. The federal LSTA program, authorized by P.L. 104-208 (H.R. 3610) and enacted September 30, 1997, supersedes the Library Services and Construction Act (LSCA).

6.1(1) The state library administers and uses the state-based LSTA funds (in any proportion) directly or through subgrants or cooperative agreements for the purposes of

- a. Establishing or enhancing electronic linkage among or between libraries;
- b. Electronically linking libraries with educational, social, or information services;
- c. Assisting libraries in accessing information through electronic networks;
- d. Encouraging libraries in different areas, and encouraging different types of libraries to establish consortia and share resources; and
- e. Paying costs for libraries to acquire or share computer systems and telecommunications technologies.

6.1(2) The state library targets library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line.

286—6.2(256) Advisory councils.

6.2(1) State LSTA advisory council. The LSTA advisory council meets at least annually. The state library when desiring assistance in the program may also call meetings of the LSTA advisory council. The council members are appointed by the state librarian and are broadly representative of the library entities in the state, including public, school, academic, special, and institutional libraries.

The council aids the state library in identifying the needs of the Iowa library community and provides suggestions for meeting those needs in accordance with the basic guidelines of the Five-Year Plan for the Use of Library Services and Technology Act (LSTA) Funds. The council also assists the state library in evaluating LSTA programs and activities and assists the state library in the five-year-plan evaluation.

6.2(2) State SILO advisory committee. The SILO advisory committee shall consist of representatives of the Iowa library community.

The SILO advisory committee reviews the technology needs of Iowa libraries and provides suggestions for meeting those needs in accordance with the basic guidelines of the Five-Year Plan for the Use of Library Services and Technology Act (LSTA) Funds.

286—6.3(256) Process. The state library administers and uses the state-based LSTA funds (in any proportion) directly or through subgrants or cooperative agreements. The actual amount, timing, and availability of funds for projects is determined by the state library of Iowa in consultation with the LSTA advisory council and the Iowa library community. In accordance with the principles set forth in the basic guidelines of the Five-Year Plan for the Use of Library Services and Technology Act (LSTA) Funds, individual grants are not anticipated. However, when individual grants are deemed to be the appropriate vehicle to meet the identified needs as well as the intent of the guidelines, information on grants will be published and distributed statewide.

6.3(1) Eligibility. Eligibility of projects will be determined by the Five-Year Plan for the Use of Library Services and Technology Act Funds. The use of the funds will have a major impact on library service to Iowans; increase access to information; have a statewide benefit; foster cooperation, resource sharing, and partnerships; involve all types and sizes of libraries; encourage innovation; and emphasize evaluation.

6.3(2) Reporting procedures. All LSTA grant recipients shall submit to the state library documentation of LSTA project-related expenses and periodic and final project reports. LSTA funded projects are subject to on-site monitoring by state library personnel.

6.3(3) Informal appeals. Informal appeals shall be made on procedural grounds only. Such grounds include alleged conflicts of interest, unfair or impartial treatment of applications or procedures not uniformly applied to all applicants.

6.3(4) Informal appeal hearing. A written request for an informal appeal hearing shall be sent to the state librarian. The hearing shall be held within 15 calendar days of the date of the request during regular business hours of the state library. The hearing shall be held before the state librarian or such members of a review board as the state librarian designates. The state librarian shall:

a. Notify the appellant as to the day, hour, and location of the hearing;

b. Inform the appellant of the right to submit any written documents regarding the application;

c. Inform the appellant that a spokesperson must be appointed if the appeal involves more than one person per project. The state librarian or designees shall direct questions only to the spokesperson during the hearing. Any other discussion or comments shall be reserved for a closed executive session. No indication of decision shall be given at the time of the hearing;

d. Notify the appellant in writing of the decision of the state librarian or designee within five calendar days of the hearing.

6.3(5) Formal appeal. A formal appeal of the LSTA decision may be made to the Iowa commission of libraries.

a. The appellant's argument shall contain:

- (1) The facts of the appeal;
- (2) An argument in favor of the appeal;
- (3) The remedy sought.

b. Appeals will be allowed on the procedural grounds that:

- (1) Staff of the state library or the advisory council acted outside the statutory authority;
- (2) Projects do not fall within the guidelines of the five-year plan;
- (3) Staff of the state library or advisory council were influenced to act as a result of a conflict of interest;
- (4) Staff of the state library or the advisory council acted in a biased or unfair manner.

c. The commission will consider and rule on the appeal after receiving all documentation from the appellant and will notify the appellant in writing of the decision within 30 days. The decision of the commission is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code section 256.51(2) "b."

[Filed 1/21/77, Notice 7/12/76—published 2/9/77, effective 3/16/77]

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[Filed 11/25/98, Notice 9/23/98—published 12/16/98, effective 1/20/99]

CHAPTER 7
INTERNET USE POLICY

PURPOSE

Access to the Internet is provided to enhance the state library's collections of information resources. It is intended for the educational and informational use of the library's customers. Sales activity, distribution of advertising and those unapproved uses defined under the Code of Iowa are prohibited. (See Iowa Code chapter 728)

286—7.1(256) Rights and responsibilities.

7.1(1) The state library expects the use of all its electronic sources such as the Internet to be responsible, ethical, and legal, and consistent with the purpose for which those resources are provided. The state library complies with the Children's Internet Protection Act (Pub. L. No. 106-554 and 47 USC 254(h)). To this end:

a. The state library affirms the right of every individual to have access to constitutionally protected material as stated in the library's collection development policy.

b. Parents or guardians, not the library or its staff, are responsible for the Internet use by their children.

c. Internet access is provided in a public area shared by users of all ages, backgrounds, and sensibilities. Users should consider this when accessing potentially controversial information and images.

d. The state library reserves the right to ask users to discontinue the display of information and images which cause a disruption.

e. Users should respect the privacy of other Internet users by not observing what sites others are accessing.

f. Users will not misrepresent themselves as any other user; will not attempt to modify or gain access to files, passwords, or data belonging to others; will not seek unauthorized access to any computer system; and will not damage or alter software components of any network or database.

g. Illegal activities subject to prosecution include:

(1) Destruction of or damage to equipment, software, or data belonging to the library;

(2) Violation of computer system security or system configuration;

(3) Violation of the copyright laws of the United States;

(4) Downloading or provision of child pornography or display of pornography where it may be seen by children.

h. To the extent practical, steps shall be taken to promote the safety and security of users of the Internet when they are using electronic mail, chat rooms, instant messaging and other forms of direct electronic communications.

i. Safety and security of minors.

(1) Prevention of inappropriate network usage.

1. Technology measures shall be used to prevent unauthorized access and other unlawful activities.

2. Technology measures shall be used to prevent unauthorized disclosure, use, and dissemination of personal identification information.

(2) Prevention of access to inappropriate material.

1. Technology protection measures, i.e., Internet filters, shall be used to block or filter access to inappropriate material on the Internet.

2. Blocking shall be applied to visual depictions of material deemed obscene, to child pornography, or to any material deemed harmful to minors.

3. Technology protection measures may be disabled by library staff for adults or, in the case of minors, minimized for bona fide research or other lawful purposes.

7.1(2) Violation of this computer use policy shall result in the loss of computer privileges and may lead to financial responsibility. Illegal activities will be prosecuted.

[ARC 2625C, IAB 7/20/16, effective 8/24/16]

286—7.2(256) Access to Internet computers.

7.2(1) The Internet is available for any user who visits the state library. Access is on a first-come, first-served basis. Appointments are not accepted, but users are welcome to call ahead to check availability.

7.2(2) Internet computers are available for use during the library's normal business hours. Use must be completed 15 minutes prior to the library's closing. The Internet may be unavailable due to unforeseen problems with hardware, software or telecommunications.

7.2(3) State employees have unlimited Internet use. Non-state employees can use the Internet up to one hour each day.

7.2(4) While respecting individual users' right to privacy, state library staff reserves the right to monitor use of Internet workstations to ensure compliance with this policy. Staff may ask users to remove themselves from library equipment if observed behavior is in conflict with this policy.

7.2(5) Staff use of computers for research and maintenance may, at times, supersede users' access.

[ARC 2625C, IAB 7/20/16, effective 8/24/16]

286—7.3(256) Costs. Rescinded **ARC 2625C**, IAB 7/20/16, effective 8/24/16.

286—7.4(256) Internet services available. Rescinded **ARC 2625C**, IAB 7/20/16, effective 8/24/16.

286—7.5(256) Downloading and saving files. Downloading and saving files to the user's own portable device is allowed. Files saved to the computer's drives are erased at the end of each user's session.

[ARC 2625C, IAB 7/20/16, effective 8/24/16]

286—7.6(256) Staff assistance.

7.6(1) State library staff will answer basic questions about Internet use or help locate resources. Internet reference books are available in the library's collection.

7.6(2) Staff reserves the right to waive the procedures contained in this document as circumstances warrant.

[ARC 2625C, IAB 7/20/16, effective 8/24/16]

These rules are intended to implement Iowa Code sections 256.51 to 256.56.

[Filed 11/25/98, Notice 9/23/98—published 12/16/98, effective 1/20/99]

[Filed ARC 2625C (Notice ARC 2514C, IAB 4/27/16), IAB 7/20/16, effective 8/24/16]

CHAPTER 8
IOWA REGIONAL LIBRARY SYSTEM
Rescinded **ARC 2624C**, IAB 7/20/16, effective 8/24/16

CHAPTER 9
APPOINTMENT PROCESS FOR LIBRARY SERVICE AREA BOARDS OF TRUSTEES
Rescinded **ARC 2624C**, IAB 7/20/16, effective 8/24/16

CHAPTER 10
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

286—10.1(17A) Scope of chapter. This chapter outlines a uniform process for the granting of waivers or variances from rules adopted by the commission 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.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.2(17A) Definitions.

“*Commission*” means the commission of libraries established by Iowa Code section 256.52.

“*Division*” means the division of libraries and information services of the department of education.

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

“*Waiver or variance*” means an agency action 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.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.3(17A) Applicability.

10.3(1) The commission may grant a waiver or variance from a rule adopted by the commission only if (1) the commission has jurisdiction over the rule; (2) no statute or rule otherwise controls the granting of a waiver or variance from the rule from which waiver or variance is requested; and (3) the requested waiver or variance is consistent with applicable statutes, constitutional provisions, or other provisions of law.

10.3(2) No waiver or variance may be granted from a requirement which is imposed by statute.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.4(17A) Commission discretion. The decision on whether the circumstances justify the granting of a waiver or variance shall be made at the discretion of the commission upon consideration of all relevant factors. Each petition for a waiver or variance shall be evaluated by the commission based on the unique, individual circumstances set out in the petition.

10.4(1) Criteria for waiver or variance. In determining whether a waiver or variance should be granted, the commission shall consider the public interest, policies and legislative intent of the statute on which the rule is based. When the rule from which a waiver or variance is sought establishes administrative deadlines, the commission shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons. The commission may, in response to a completed petition, grant a waiver or variance from a rule, in whole or in part, as applied to the circumstances of a specified situation if the commission finds all of the following:

a. The application of the rule would result in an undue hardship on the person for whom the waiver or variance is requested;

b. The waiver or variance from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and

d. 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 or variance is requested.

10.4(2) Special waiver or variance rules not precluded. These uniform waiver and variance rules shall not preclude the commission from granting waivers or variances in other contexts if a statute or other rule authorizes the commission to do so and the commission deems it appropriate to do so.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.5(17A) Requester's responsibilities in filing a petition for waiver or variance.

10.5(1) Application. All petitions for waiver or variance must be submitted in writing to the State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

10.5(2) Content of petition. A petition for waiver or variance shall include the following information where applicable and known to the requester:

- a. A description and citation of the specific rule from which a waiver or variance is requested.
- b. The specific waiver or variance requested, including the precise scope and operative period that the waiver or variance will extend.
- c. The relevant facts that the petitioner believes would justify a waiver or variance under each of the four criteria specified in paragraphs "a" through "d" of subrule 10.4(1).
- d. 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 or variance.
- e. A history of any prior contacts between the commission and the petitioner or between the division and the petitioner within the past five years.
- f. Any information known to the requester regarding the treatment of similar cases by the commission.
- g. The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver or variance.
- h. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
- i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver or variance.
- j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information relevant to the waiver or variance.

10.5(3) Burden of persuasion. When a petition is filed for a waiver or variance from a rule, the burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the commission should exercise the commission's discretion to grant the petitioner a waiver or variance.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.6(17A) Notice. The commission shall acknowledge a petition upon receipt. The commission shall ensure that, within 30 days of the receipt of the petition, 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. In addition, the commission may give notice to other persons. To accomplish this notice provision, the commission 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 commission attesting that notice has been provided.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.7(17A) Commission's responsibilities regarding petition for waiver or variance.

10.7(1) Additional information. Prior to issuing an order granting or denying a waiver or variance, the commission 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 commission may, on the commission's own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the commission.

10.7(2) 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 or variance of a rule filed within a contested case; (2) when the commission so provides by rule or order; or (3) when a statute so requires.

10.7(3) Ruling. An order granting or denying a waiver or variance 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 reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

10.7(4) Conditions. The commission may place any condition on a waiver or variance that the commission finds desirable to protect the public health, safety, and welfare.

10.7(5) Narrowly tailored exception. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

10.7(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 commission, a waiver may be renewed if the commission finds that grounds for a waiver continue to exist.

10.7(7) Time for ruling. The commission shall grant or deny a petition for a waiver or variance 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 commission shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

10.7(8) When deemed denied. Failure of the commission to grant or deny a petition within the required time period shall be deemed a denial of that petition by the commission.

10.7(9) Service of order. Within seven days of its issuance, any order issued under this chapter 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 7596B, IAB 2/25/09, effective 4/1/09]

286—10.8(17A) Public availability. All orders granting or denying waivers and variances under this chapter shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver or variance and orders granting or denying a waiver or variance petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information that the commission is authorized or required to keep confidential. The commission may accordingly redact confidential information from petitions or orders prior to public inspection.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.9(17A) Voiding or cancellation. A waiver or variance is void if the material facts upon which the request or petition is based are not true or if material facts have been withheld. A waiver or variance issued by the commission pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and opportunity for hearing, the commission 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 any conditions contained in the order.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.10(17A) Violations. Violation of conditions in the waiver or variance order is the equivalent of violation of the particular rule for which the waiver or variance is granted and is subject to the same remedies or penalties.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.11(17A) Defense. After the commission issues an order granting a waiver or variance, 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 7596B, IAB 2/25/09, effective 4/1/09]

286—10.12(17A) Judicial review. Granting or denying a request for waiver or variance is final agency action under Iowa Code chapter 17A. Judicial review of the decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

286—10.13(17A) Summary reports. Semiannually, the division shall prepare a summary report identifying the rules for which a waiver has been granted or denied by the commission, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the commission'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 this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

[ARC 7596B, IAB 2/25/09, effective 4/1/09]

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

[Filed ARC 7596B (Notice ARC 7464B, IAB 12/31/08), IAB 2/25/09, effective 4/1/09]

CHAPTER 11
DECLARATORY ORDERS

286—11.1(17A) Definitions.

“*Division*” means the division of libraries and information services of the department of education.

“*Person*” means an individual, library, government or governmental subdivision or agency, partnership or association, or any legal entity.
[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.2(17A) Petition for declaratory order. Any person may file a petition with the division for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the division, at the State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319. A petition is deemed filed when it is received by the division. The division shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the division an extra copy for this purpose. The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DIVISION OF LIBRARIES AND INFORMATION SERVICES	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}
	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
7. The names and addresses of other persons or a description of any class of persons known by petitioner to be affected by or interested in the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 11.8(17A).

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.3(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the division shall give notice of the petition to all persons not served by the petitioner pursuant to whom notice is required by any provision of law. The division may also give notice to any other persons.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.4(17A) Intervention.

11.4(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 15 days of the filing of a petition for declaratory order (after time for notice under rule 11.3(17A) and before 30-day time for division action under rule 11.9(17A)) shall be allowed to intervene in a proceeding for a declaratory order.

11.4(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the division.

11.4(3) A petition for intervention shall be filed at the State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319. Such a petition is deemed filed when it is received by that office. The division will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DIVISION OF LIBRARIES AND INFORMATION SERVICES		
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
5. The names and addresses of any additional persons or a description of any additional class of persons known by the intervenor to be affected by or interested in the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.5(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The division may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.6(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the State Librarian, State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.7(17A) Service and filing of petitions and other papers.

11.7(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with a filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

11.7(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the State Librarian, State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.8(17A) Consideration. Upon request by petitioner, the division must schedule a brief and informal meeting between the original petitioner, all intervenors, and a member of the division to discuss the questions raised. The division may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the division by any person.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.9(17A) Action on petition. Within the time allowed by Iowa Code section 17A.9, after receipt of a petition for a declaratory order, the division shall take action on the petition as required by Iowa Code section 17A.9.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.10(17A) Refusal to issue order.

11.10(1) The division shall not issue a declaratory order where prohibited by Iowa Code section 17A.9 and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the division to issue an order.
3. The division does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.
10. The petitioner requests that the division determine whether a statute is unconstitutional on its face.

11.10(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

11.10(3) A refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue a ruling.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.11(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.12(17A) Copies of orders. Copies of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

286—11.13(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the division, the petitioner,

and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the division. The issuance of a declaratory order constitutes final agency action on the petition.

[ARC 7597B, IAB 2/25/09, effective 4/1/09]

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

[Filed ARC 7597B (Notice ARC 7465B, IAB 12/31/08), IAB 2/25/09, effective 4/1/09]

CHAPTER 12
PETITIONS FOR RULE MAKING

286—12.1(17A,256) Petition for rule making. A petition requesting the adoption, amendment, or repeal of a rule shall be filed with the division of libraries and information services, at the State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319. A petition is deemed filed when it is received by the division. The division shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the division an extra copy for this purpose.

12.1(1) The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DIVISION OF LIBRARIES AND INFORMATION SERVICES

Petition by (Name of Petitioner) for the Adoption/Amendment/Repeal of (Cite rule involved).	}	PETITION FOR RULE MAKING
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12.1(2) The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the petition is based.
2. The precise citation to the present rule if the petition is for the amendment or repeal of the same.
3. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, and any other relevant law.
4. A summary of the reasons for requesting the adoption, amendment or repeal of a rule.
5. Full disclosure of the petitioner’s interest in the outcome of the petition.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the issue(s) raised by the petition and whether, to the petitioner’s knowledge, that issue(s) has been decided by, is pending determination by, or is under investigation by, any other governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the issue(s) presented in the petition.

12.1(3) The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

[ARC 7598B, IAB 2/25/09, effective 4/1/09]

286—12.2(17A,256) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the State Librarian, State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319.

[ARC 7598B, IAB 2/25/09, effective 4/1/09]

These rules are intended to implement Iowa Code sections 17A.7 and 256.52.

[Filed ARC 7598B (Notice ARC 7466B, IAB 12/31/08), IAB 2/25/09, effective 4/1/09]